

**MUNICIPAL TAX DUPLICATION AND REVENUE SHARING IN  
MONTGOMERY COUNTY MD**

**APPENDIX**

OFFICE OF LEGISLATIVE OVERSIGHT  
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## TERMS AND DEFINITIONS

**County only services** – A term used by the Institute for Governmental Services to refer to those services provided only by counties as a result of specific mandates and authorities in State law. Municipalities are not authorized to provide county only services. Examples include K-12 education, the election board and the sheriff. See an excerpt from OLO Report 2008-5 attached to this appendix for more details.

**Municipal Governments** – Cities, towns or villages in Maryland that may operate under home rule authority. Some villages in Maryland are special taxing units instead of incorporated municipalities. This study's references to municipalities includes these special taxing districts. See information from the Census of Governments about Maryland attached to this appendix for more details.

**Non-reimbursable services** – A term used by OLO to identify those shared services that are not designated for reimbursement through a municipal tax duplication program. They may include services that are unique to a political jurisdiction or services that exist because the government itself exists. They are also referred to as sole provider services.

**Parallel expenditures** – The existence of county and municipal expenditures for the same functional classification or service activity that results from a side by side comparison of county and municipal financial reports.

**Reimbursable services** – Activities in the shared services categories where concurrent county and municipal spending provides an equivalent service. A county designates these activities as eligible for reimbursement through its municipal tax duplication program.

**Service Category Definitions** – Groups of functional services activities established by the State Department of Legislative Services to report financial data for the State's local government units. See an exhibit from OLO Report 2008-5 attached to this appendix for more details.

**Service rate factor** – A ratio that represents the service level of effort of a municipality compared to that of a county. The basis for the service rate is a program or activity metric such as hours of coverage or positions.

**Shared provider system** – A term used by OLO to describe the service delivery network for reimbursable services. The providers consist of a county government and one or more of its municipalities. If a municipal tax duplication program's cost of service formulas are based on unit costs, this creates a shared provider system with a uniform cost structure.

**Shared services** – Services that both counties and municipalities have the authority to provide. Examples of shared services include water and sewer services, street and highway maintenance and construction, police and fire protection, parks and recreation services, planning and zoning and solid waste removal. The Institute for Governmental Services refers to shared services that show both county and municipal expenditures as parallel services.

**Special area tax districts** – A term used by the Institute for Governmental Services and the Maryland Municipal League to refer to bi-county or county property tax districts that fund certain discretionary shared services. Some boundaries of Montgomery County's special area tax districts cover the entire County, e.g., the mass transit district; some are state-established bi-county districts with boundaries that exclude certain municipalities, e.g. the Metropolitan District.

The examples below illustrate the different ways State law delegates power or authority to counties and municipalities.

**State Mandates Reserved for Counties.** Several provisions of State law that establish state-wide services do so by assigning specific duties and responsibilities to each of the counties.

- **Education.** The State requires each county to levy taxes and provide other revenues to fund the education budget for grades K-12. Md. Code Ann., Education § 5-102. Similarly, the State requires counties to fiscally support community colleges. Ibid. § 16-301.
- **County Board of Health.** State law establishes the governing body of each county as the County Board of Health unless the County establishes a separate board of health, and requires each board of health “to exercise the duties imposed by law on the board of health.” Md. Code Ann., Health-General § 3-202(a)(1). The law further requires the county board of health to exercise the same duties in each municipality or special taxing district unless those entities have a charter provision or ordinance that covers the same subject matter, is at least as restrictive as the requirement the county must enforce, or includes provisions for enforcement. Ibid. § 3-202(a)(2).
- **State’s Attorney:** Article V, § 7 of the Maryland Constitution requires the election of a State’s Attorney in each county. The Maryland Code requires each county to pay the salaries and expenses of its State’s Attorney. Md. Ann. Code art. 10, § 40(a).
- **Sheriffs:** Article IV, § 44 of the Maryland Constitution requires the election of a Sheriff in each County. The Maryland Code requires each county to pay the salaries and expenses of its Sheriff. Md. Code Ann., Courts and Judicial Proceedings § 2-309(a).
- **County Board of Elections:** State law establishes a County Board of Elections in each county. Md. Code Ann., Election Law § 2-201(a)(1). Each county must appropriate funds that allow the Board of Elections “to exercise the powers and perform the duties prescribed for it by law . . . .” Md. Code Ann., Election Law § 2-203.
- **10-Year Water, Sewer, and Solid Waste Disposal Plans:** Each county must develop a 10-year plan that addresses water supply, sewer systems, solid waste disposal, and solid waste disposal facilities, including the expansion of these systems. Md. Code Ann., Environment §§ 9-503(a), 9-505(a). A 10-year plan must incorporate subsidiary plans of towns and municipal corporations “to the extent that the incorporation will promote the public health, safety, and welfare . . . .” Ibid. § 9-504(a).



- **Liquor Control:** State law establishes a Department of Liquor Control in Montgomery County that has the power to regulate the purchase and sale of wine and other alcoholic beverages in the County. Md. Ann. Code art. 2B, §§ 15-201(a), 15-205(b)-(d).
- **Certain Court Personnel:** The County Council must compensate court reports who take or transcribe grand jury testimony in Montgomery County. Md. Code Ann., Courts and Judicial Proceedings § 2-501(b)(2)(ii).

**State-Delegated Authority Shared by Counties and Municipalities.** Other provisions of State law delegates authority for providing certain services to either counties or municipalities.

- **Planning and Zoning Powers:** State law grants local legislative bodies the authority to implement “planning and zoning controls” and to regulate and restrict the use of land. Md. Ann. Code art. 66B, § 4.01(a)(1)(ii), (b)(1). However in Montgomery County, neither M-NCPPC, the Montgomery County Planning Board, nor the District Council has planning or zoning power or jurisdiction in municipal corporations that existed as of June 1, 1957, unless a municipality enters into an agreement allowing M-NCPPC or the Planning Board power and jurisdiction over planning and zoning in the municipality. Md. Code Ann. Art. 28, § 7-105(b), (f). In general, municipalities that incorporated after June 1, 1957 do not have planning or zoning powers. Ibid. § 2-105(b).
- **Affordable Housing Programs:** State law grants counties and municipalities authority to establish affordable housing programs, including the authority to enact laws to facilitate such programs. Md. Ann. Code art. 24, § 21-101.

**Service Category Definitions and Required Activities.** Exhibit 2-1 (page 10) displays the service categories and activity descriptions published in the Legislative Handbook Series. The Department of Legislative Services uses these categories to report financial data for the State’s local government units. Those items marked with an asterisk are those that are required or governed under State law.

**EXHIBIT 2-1. SERVICE CATEGORIES USED TO CLASSIFY LOCAL GOVERNMENT  
EXPENDITURES**

<b>Service Category</b>	<b>Description of Activities</b>
General Government	This grouping includes executive and legislative control, election supervision*, financial administration (budgeting and accounting), legal support, and personnel administration.
Judicial Support*	Functions include the State's Attorney and judicial activities of the Sheriff. This category also includes funding for the operations of the Circuit Courts.
Public Safety	This grouping includes law enforcement, fire protection, corrections, building inspection, animal control, and traffic engineering.
Transportation	Baltimore City maintains all roads except certain interstate highways. The counties are responsible for maintenance and upkeep of local roads.
Education*	Funding of the public schools (K-12) through the county boards of education.
Community Colleges*	The schools that operate under State law are funded with a combination of State and local funds.
Libraries	Although not required to do so by State law, all counties, including Baltimore City, have established a public library system, usually governed by a library board.
Health*	Counties operate the State-required and regulated county health department and State-authorized core service agencies (which coordinate services for the mentally ill).
Public Works	Zoning, alcoholic beverage control*, planning, sewer, water, storm drain, and solid waste collection and disposal are generally the responsibility of the counties.
Economic and Community Development	Counties engage in varying levels of economic and community development.
Human Services	While the county role in delivering social services varies by jurisdiction, most counties administer area agencies on aging. These agencies coordinate the delivery of State and local services to older Maryland residents.

Source: Legislative Handbook Series, Volume II, Chapter 1, p. 5.

**C. Municipal Authority in Maryland Before and After 1954**

Municipalities in Maryland date back to the incorporation of Annapolis in 1637. Although municipalities have existed for centuries, their powers and authority changed significantly in 1954 when voters ratified the Municipal Home Rule Amendment.

**Municipal Authority Before 1954.** Prior to the ratification of the Municipal Home Rule Amendment, the State was responsible for all aspects related to the governance of



# Maryland

Maryland ranks 46th among the states in number of local governments, with 265 as of June 2002.

## COUNTY GOVERNMENTS (23)

The entire state is encompassed by county government with the exception of the area of the city of Baltimore. Baltimore is an independent city outside the area of any county and is counted as a municipal rather than a county government. Baltimore County is a county government but excludes the area of Baltimore City. Anne Arundel, Baltimore, Charles, Frederick, Harford, Howard, Montgomery, Prince George's, Talbot, and Wicomico counties operate under home-rule charters. These counties are governed by county councils.

In counties without home-rule charters, the county governing body is known as the board of county commissioners. In addition, Allegany, Caroline, Kent, Queen Anne's, and Worcester counties operate under a special code option, but their governing bodies are still designated as boards of county commissioners.

## SUBCOUNTY GENERAL PURPOSE GOVERNMENTS (157)

### Municipal Governments (157)

The municipal governments in Maryland are the cities, towns, and villages. There are no significant differences between city and town governments that would affect their classification for census statistics. All municipal governments in Maryland except the city of Baltimore are treated as a single class in state legislation. Incorporation as a municipality requires a minimum population of 300. Municipalities may operate under home-rule.

Some "villages" in Montgomery County have been formed as special taxing units rather than incorporated as municipal governments. These are counted as special district governments rather than as municipal governments for census purposes. See "Special District Governments," below.

### Township Governments (0)

Maryland has no township governments.

## PUBLIC SCHOOL SYSTEMS (39)

### School District Governments (0)

Maryland has no independent school district governments.

Governments—Individual State Descriptions

U.S. Census Bureau

## Dependent Public School Systems (39)

In Maryland, the local public school systems are not counted as separate governments. Maryland statutes provide for the following types of dependent public school systems:

Systems dependent on county governments:

- County boards of education
- County and regional community colleges

System dependent on municipal governments:

- Baltimore City schools

County schools are administered by a county board of education, which is either appointed by the Governor or elected except in Prince George's County where the board is jointly appointed by the Governor and the county executive from a list submitted by the state board of education. County school fiscal requirements are determined and provided for by the county governing body. The county school systems are classified for census purposes as dependent agencies of the county government.

The Baltimore City schools are governed by a board of commissioners jointly appointed by the Governor and the mayor. Fiscal requirements are subject to review and are provided for by the city of Baltimore. The Baltimore City School System is not counted as a separate government but is classified as a dependent agency of the city of Baltimore.

Most community colleges in Maryland are classified for census reporting as dependent on the county governments they serve. Community colleges are governed by a board of trustees appointed, in most cases, by the Governor with the consent of the senate. Fiscal requirements of the colleges are determined and provided for by the sponsoring county governments. In the case of regional community colleges, which serve two or more counties, each participating county provides its share of the fiscal requirements of the college in proportion to enrollment and county population. The Baltimore City Community College is classified as a state dependent agency.

### Other Educational Activities

County boards of education may enter into agreements with other county boards of education, other educational institutions or agencies, or the county boards of commissioners or county councils to provide joint services. If a separate administrative entity is created, the agreement

Maryland 1



specifies the nature of the board and the funding arrangements. The Regional Education Service Agency of Appalachian Maryland was created as a joint agreement.

### **SPECIAL DISTRICT GOVERNMENTS (85)**

Maryland statutes authorize the creation of a variety of special districts or authorities that are counted as governments. These are discussed in detail below.

#### **Cooperative Library Corporations**

These entities may be formed as nonstock corporations by two or more boards of library trustees. They are governed as specified in their articles of incorporation. They may collect user fees and receive state and local funding. The Eastern Shore Regional Library was formed under this law.

#### **Drainage Districts and Ditches<sup>1</sup>**

Maryland statutes authorize the following types of independent districts to provide for drainage of agricultural lands:

**Drainage or levee districts.** Drainage or levee districts may be established by the board of county commissioners on petition of landowners. A board of drainage commissioners is appointed by the county commissioners. The board may issue bonds and levy special benefit assessments. As of June 2002, no drainage districts appear to have been established under this law.

**Storm drainage districts.** These districts may be established by local law in charter and code home-rule counties. Financial provisions governing storm drainage districts vary according to terms of the local legislation.

**Tax ditches (drainage).** Legislation authorizing these districts was repealed in 1941, but tax ditches then in operation are permitted to continue. Drainage ditches were established by the boards of county commissioners on petition of landowners and after a public hearing. Elected boards of managers govern the ditches. Tax ditches may levy special benefit taxes.

#### **Housing Authorities**

Housing authorities may be established in counties or in cities upon resolution of the governing body. They are governed by boards of commissioners appointed by the county governing body or the mayor. The authorities may issue bonds and fix and collect rentals.

Housing authorities governed by the county governing body or subject to county fiscal controls are not counted as separate governments. See "Subordinate Agencies and Areas," below.

<sup>1</sup>Public drainage associations, previously classified as special districts, were reclassified as county dependents for the 2002 Census of Governments.

### **Metropolitan Washington Airports Authority**

This authority is counted under "Virginia—Special District Governments."

### **Northeast Maryland Waste Disposal Authority**

This authority was created by special act to provide resource recovery facilities. The authority board consists of one member representing each member county and Baltimore City appointed by the Governor from lists approved by the chief executive officers. The director of the Maryland Environmental Service also serves on the board. The authority may fix and collect fees and rentals and issue revenue bonds.

### **Potomac Highlands Airport Authority**

This authority is counted under "West Virginia—Special District Governments."

### **Public Watershed Associations**

These associations provide water conservation, drainage, flood control, and soil conservation. The county governing body or the mayor and city council of Baltimore City may establish these associations upon petition of landowners and after public hearing. An elected board of directors governs each association. The board may issue bonds and may levy assessments on benefited land.

### **Sanitary (or "Metropolitan") Commissions**

Sanitary districts provide water supply, sewerage, and solid waste disposal facilities. These districts are established by ordinance or resolution of the county governing body of each county served. A commission, appointed by the county governing body, governs the districts in that county. The commissions may issue bonds, levy taxes, and impose charges for services.

LaVale Sanitary Commission, created by special act, also is counted as an independent government. The board is appointed by the county commissioners. The board may fix and collect fees, issue bonds, and set property taxes.

The Washington Suburban Sanitary Commission, created by special act, is subject to budget oversight by Montgomery and Prince George's counties. The St. Mary's County Metropolitan Commission, also created by special act, is subject to bond approval by the county. These commissions are classified as subordinate agencies.

Commissions of this type that are governed by the county governing body are not counted as separate governments. See "Subordinate Agencies and Areas," below.

### **Soil Conservation Districts**

These districts are created by the state soil conservation committee on petition of the land occupiers after a public hearing and local referendum. A board of supervisors,



with four members appointed by the state soil conservation committee and one by the county governing body, governs each district. The districts may require contributions from landowners for services performed and establish and implement a fee system.

### **Special Tax Districts<sup>2</sup>**

The following special tax districts are counted as special districts. The services they provide are specified in the creating legislation and may include services such as streets, lighting, parking, water supply, sanitation, drainage, recreational facilities, police, or fire.

#### **In Allegany County:**

The Bel Air Special Taxing Area, Bowling Green and Robert's Place Special Taxing Area, Crespatown Special Taxing District, Ellerslie Special Taxing Area, McCoole Special Taxing District, Mount Savage Special Tax Area, and Potomac Park Addition Taxing District are counted as special districts. These districts were created by state law and local referendum prior to the passage of home-rule in Allegany County. The county does not have the power to modify or abolish these districts. The governing bodies are elected. The county levies a property tax on behalf of the districts. The Crespatown Special Taxing District may issue bonds.

The Corriganville Special Taxing District also is counted as an independent government. The Corriganville Light and Improvement Association, popularly elected, governs the district. The association may fix and collect fees and sets the tax rate to be levied by the county.

#### **In Montgomery County:**

The Friendship Heights and "The Hills" Special Tax District, Oakmont Special Tax District, and Village of Drummond Special Taxing Area are counted as special districts. These districts were created by state law prior to the passage of home-rule in Montgomery County. The county does not have the power to modify or abolish these districts. The governing boards are elected. The statutes set a minimum tax for the county to levy on behalf of each district. The governing boards may levy special assessments with the approval of the county. The latter two may issue bonds.

Five former special taxing districts of this nature that were created by the general assembly have become municipal corporations.

For special tax districts in these counties and other counties that are not counted as governments, see "Subordinate Agencies and Areas," below.

<sup>2</sup>The special community benefit districts in Anne Arundel County, previously classified as special districts, were reclassified as county dependent taxing areas for the 2002 Census of Governments.

### **Upper Potomac River Commission**

This commission was established by special act to reduce pollution in the Potomac River by providing facilities for treatment and disposal of sewage and industrial wastes. The commission consists of three members: a chair appointed by the Governor and one member appointed by each of the commissioners of Allegany and Garrett counties. The commission may issue revenue bonds and fix and collect fees.

### **Washington County Free Library**

This library was formed under a special act to provide library services to the residents of Washington County. It is governed by a board of nine trustees. The library may obtain revenue through donations, sales, investments, and state and local appropriations.

### **Washington Metropolitan Area Transit Authority**

This authority is counted under "District of Columbia—Special District Governments."

### **Water and Sewer Authorities**

These authorities may be created by one or more political subdivisions (county, municipality, sanitary district, or other political subdivision) except in Montgomery and Prince George's counties. These authorities are governed by boards appointed by the creating governments. The authorities may fix and collect fees and issue bonds.

Water and sewer authorities with ex officio boards are not counted as independent governments. See "Subordinate Agencies and Areas," below.

### **SUBORDINATE AGENCIES AND AREAS**

Shown below are various governmental designations in Maryland that have certain characteristics of governmental units but that are classified in census statistics as subordinate agencies of the state or local governments and are not counted as separate governments. Legal provisions for some of the larger of these are discussed below (see "Public School Systems," above, regarding educational agencies of this nature).

Some subordinate agencies and areas represent "special taxing areas" within the territory of an established government other than those listed under "Special Tax Districts," above. This method of financing additional services in limited areas by property taxation, while also used by some municipal and township governments in a few states, is more widely utilized by county governments. In the listing below of authorized county-related agencies, a bullet (\*) appears for each entity of this kind—i.e., any that may individually serve a portion rather than all of a county and for which a tax may be levied against the assessed value of property in the area served.



**Maryland Health and Higher Educational Facilities Authority (state).** An act of the state legislature created this authority to finance the construction of buildings for hospitals and institutions of higher education. The authority is governed by a board of nine members including eight members appointed by the Governor, plus the state treasurer ex officio. The authority may fix and collect fees and rents; make loans to participating hospitals or institutions of higher education; and issue revenue bonds.

**Maryland-National Capital Park and Planning Commission (joint county).** This commission provides park and recreational facilities plus planning services in Montgomery and Prince George's counties. It was created by special act. The governing body consists of ten members, five appointed by the Montgomery County council with the consent of the county executive and five appointed by the Prince George's County executive with the consent of the county council. Revenue needs are met by county tax levies. In addition, the commission may issue bonds, which may be guaranteed by the county in which the facilities to be financed are located. Since 1972, Montgomery and Prince George's counties have had the power to modify the commission budget. The commission also acts as governing body for the Maryland-Washington Metropolitan District and the Maryland Washington Regional District. These two districts are not counted as separate governments.

**Maryland Transportation Authority (state).** This authority was created by 1970 legislation to finance, operate, and maintain all state toll highways, bridges, and tunnels and finance other transportation-related facilities by revenue bonds. Authority members are the secretary of the department of transportation plus six members appointed by the Governor with the consent of the senate. The authority may impose rates and charges for its facilities and issue revenue bonds.

Other examples include:

#### State

Auxiliary and Academic Facilities Bond Authority  
Canal Place Preservation and Development Authority  
Chesapeake Bay Trust  
Forest conservancy districts  
Historic St. Mary's City Commission  
Maryland Affordable Housing Trust  
Maryland Agricultural Land Preservation Foundation  
Maryland Deposit Insurance Fund Corporation  
Maryland Economic Development Corporation  
Maryland Environmental Service  
Maryland Food Center Authority  
Maryland Health Care Foundation  
Maryland Heritage Areas Authority  
Maryland Higher Education Supplemental Loan Authority  
Maryland Historical Trust

Maryland Industrial Development Financing Authority  
Maryland Port Commission (including Maryland Port Administration)  
Maryland-Potomac Water Authority (joint state-county)  
Maryland Small Business Development Financing Authority  
Maryland Stadium Authority  
Maryland Venture Capital Trust  
Seafood Marketing Authority  
Southern Maryland Higher Education Center  
State Tobacco Authority

#### County

Allegany County Transit Authority  
Anne Arundel County Recreational Facilities Revenue Authority  
Baltimore County Metropolitan District  
Baltimore County Revenue Authority  
Baltimore County revitalization districts  
Battery Park tax area (Montgomery County)  
Bedford Road Fire Taxing Area (Allegany County)  
Bowling Green Fire Taxing Area (Allegany County)  
Calvert County Economic Development Authority  
Commercial district management authorities  
County library boards  
Crofton Special Community Benefit District (Anne Arundel County)  
Crystal Beach Manor Special Taxing District (Cecil County)  
Electric lighting districts  
• Erosion districts  
Garrett County Memorial Hospital  
Historic districts  
Housing authorities governed by county governing body or under county fiscal control  
Howard County Economic Development Authority  
• Howard County fire districts  
Howard County Mental Health Authority  
Industrial development authorities (county)  
• LaVale Fire Taxing Area (Allegany County)  
• LaVale Rescue Taxing Area (Allegany County)  
Local economic development agencies  
Maryland-Potomac Water Authority (joint state-county)  
Montgomery County Fire Tax District  
Montgomery County Recreation District  
Montgomery County Revenue Authority  
Montgomery County Suburban District  
Noise abatement districts in Montgomery County  
Octoraro Lakes Special Taxing District (Cecil County)  
Parking authorities (Montgomery and Prince George's counties)  
• Parking lot districts in Montgomery County  
Prince George's County Redevelopment Authority  
Prince George's County Revenue Authority  
Prince George's County special improvement districts  
Public drainage associations  
St. Mary's County Building Authority Commission  
St. Mary's County Metropolitan Commission

- St. Mary's County Special Tax District (fire)
- Sanitary (or "metropolitan") districts governed by county governing body
- Shore erosion control districts
- Special community benefit districts in Anne Arundel County
- Special taxing areas for public transportation in Anne Arundel, Carroll, Calvert, Frederick, Garrett, Howard, and Montgomery counties
- Special taxing districts in Anne Arundel, Calvert, Charles, Garrett, Howard, Prince George's, Washington, and Wicomico counties
- Special taxing districts in home-rule counties
- Tax increment financing districts
- Urban district corporations (Montgomery County)
- Urban districts (Montgomery County)
- Washington County Museum of Fine Arts
- Washington Suburban Sanitary Commission
- Washington Suburban Transit District
- Water and/or sewer authorities with ex officio boards
- Waterways improvement districts
- Wicomico Urban Services Commission
- Worcester County Citizens Nursing Home Board

## **Municipal**

Baltimore City Downtown Commercial District Management Authority

Baltimore City Child First Special Authority

Baltimore City community benefits districts

Baltimore Civic Center Authority

Baltimore Community Development Finance Corporation

Drainage districts in Takoma Park

Enoch Pratt Free Library (Baltimore)

Historic districts

Industrial development authorities (municipal)

Lexington Market Authority (Baltimore)

Parking authorities (Baltimore City)

Special taxing districts created by municipalities in home-rule counties

Tax increment financing districts (except Baltimore City)

Urban renewal agencies (special acts)

Urban renewal authorities for slum clearance

Water and/or sewer authorities with ex officio boards

Waterways improvement districts

Maryland laws also provide for various types of local areas for election purposes and administration of justice.



*Overview of Revenues, Expenditures, & Other Financial Data for Municipalities &  
Special Taxing Districts in Montgomery County*

**EXHIBIT 2-2. SUMMARY CHART OF MOST PREVALENT POWERS AUTHORIZED IN THE CHARTERS OF MONTGOMERY COUNTY  
MUNICIPALITIES AND SPECIAL TAXING DISTRICTS**

Municipality or Special Taxing District	Animal Control	Advertising	Amusements	Billboards/Signs	Building Code/ Enforcement	Community Services	Cooperative Activities	Curfew	Establish- ment Departments	Explosives, Flammable and Combustibles
Barnesville	x	x	x	x	x	x	x	x		x
Brookeville		x	x	x	x		x		x	
Chevy Chase, Town of	x	x	x	x	x	x	x	x	x	x
Chevy Chase View										
Chevy Chase Village					y					
Friendship Heights					y					
Gaithersburg	x	x	x	x	x	x	x	x	x	x
Garrett Park	x	x	x	x	x	x	x	x	x	x
Glen Echo	x	x	x	x	x	x	x	x	x	x
Kensington	x	x	x	x	x	x	x		x	
Laytonsville										
Martin's Additions										
North Chevy Chase					y		x			
Oakmont										
Poolsville	x	x	x	x	x	x	x	x	x	x
Rockville	x	x	x	x	x	x	x	x	x	x
Somerset	x	x	x	x	x	x	x	x	x	x
Takoma Park	x	x		x	x	x	x		x	
Village of Chevy Chase, Section 3					x					
Village of Chevy Chase, Section 5										
Village of Drummond					x					
Washington Grove	x	x	x	x	x	x	x	x	x	x
Total	11	12	11	12	17	11	13	9	11	9

Source: Municipal and Special Taxing District Charters



**EXHIBIT 2-2. SUMMARY CHART OF MOST PREVALENT POWERS AUTHORIZED IN THE CHARTERS OF MUNICIPALITIES AND SPECIAL TAXING DISTRICTS (CONTINUED)**

Municipality	Franchises (Water, Gas, Etc.)	Fire	Grants In-aid	Health	Parking Control	Parks and Recreation	Police	Acquire Property	Waste Collection	Streets and Sidewalks	Sewer and Water/ Stormwater	Total
Barnesville	x	x	x	x			x	x	x			16
Brookeville	x			x	x	x	x	x	x	x		14
Chevy Chase Town	x		x	x	x	x	x	x	x	x		19
Chevy Chase View									y	y		2
Chevy Chase Village		y			y		x		y	y	y	7
Friendship Heights		y		y		y	y		y	x	y	8
Gaithersburg	x	x	x	x	x	x	x	x	x	x	x	21
Garrett Park	x	x	x	x	x	x	x	x	x	x	x	21
Glen Echo			x	x		x	x	x	x	x	x	18
Kensington	x		x	x	x	x	x	x	x	x	x	18
Laytonsville										x		1
Martin's Additions												0
North Chevy Chase		y			y		y		y	y	y	8
Oakmont					x				x	x		3
Poolesville	x	x	x	x	x	x	x	x	x	x	x	21
Rockville	x	x	x	x	x	x	x	x	x	x	x	21
Somerset	x	x	x	x	x	x	x	x	x	x	x	21
Takoma Park	x		x	x	x	x	x	x	x	x	x	17
Village of Chevy Chase, Section 3		x				x	x		x	x	x	7
Village of Chevy Chase, Section 5												0
Village of Drummond										x		2
Washington Grove	x	x	x	x	x	x	x	x	x	x		10
Total	11	11	11	13	13	13	16	12	18	19	12	NA

Source: Municipal and Special Taxing District Charters

## Maryland Municipal League Survey of Municipal Services 2010

[illegible]



## **Understanding the Role of the Village Managers and the Chevy Chase Towns and Villages Municipalities Diverse Responsibilities**

As you embark upon your study of the “numbers” –income and expenses for each of the municipalities, it’s important that you understand that these communities have chosen to be municipalities because the main advantage is a more hands-on, immediate relationship with a governing body. Rockville, Gaithersburg and Takoma Park are the “big boys” of Montgomery County’s municipalities. Their budgets, their responsibilities, are all much more elaborate and complex than many of the smaller communities in the County, and the level of services provided is different as well.

The communities to which I refer in this paper include: the Town of Chevy Chase, Chevy Chase Section 3, Chevy Chase Section 5, Chevy Chase View, Chevy Chase Village, Friendship Heights, Garrett Park, Kensington, Martin’s Additions, North Chevy Chase and Somerset. We appreciate and enjoy a good working relationship with the County and its agencies, but it is important for you to understand the way we work as distinct from the way the County operates.

Depending on the size of the community, our Village Managers serve as a combination administrator/manager, bookkeeper, long-range planner, contract specialist, “mom”, advisor/concierge, social worker and dispute resolution specialist and communications specialist, snow removal specialists, community booster, party and event planner, liaison with utilities services, emergency services contact, landscape specialist, road repair and construction specialist, protector of the community from encroachment by various utility services, unwanted solicitors and west Nile virus, crime alert vehicle, and of course, lost and found. We provide a level of responsiveness that a large county government could not begin to provide. And we work hand in hand with County agencies and personnel when it’s appropriate.

*We are, in short, the connective tissue for each of our communities. We are far more than a glorified homeowners association. We are living breathing municipalities providing many services to our residents NOT provided by the County.*

Clearly, the services we provide are different, by definition. So looking at the dollar amounts for each municipality requires a more sensitive qualitative treatment than just adding up the numbers and doing a dollar for dollar comparison.

Just as the County runs an impressive series of recreation centers and programs, so do we in our own communities. Much of our “community promotion” budgets (as listed in the state audit reports) are earmarked for that purpose. We all have newsletters, list serves and websites to communicate with our residents --some have more elaborate emergency communication vehicles. Some of us have town halls or offices where residents can come for information, assistance and activities, others improvise with the spaces available to them. Clearly, our residents use County recreational facilities as well, but there is a locus of activities which takes place right in our own back yards which brings us together as a



community, as neighbors, in a way that an open-to-the-public facility cannot and does not accomplish. So the cost of our parks is often not as simple as landscape services or maintenance activities like mowing the grass and mulching the gardens---it's extensive recreational activities centered around our parks and open spaces. Our town halls are often the equivalent of the local recreation center too, as many community activities take place there. In the case of Friendship Heights, where much of their population is in the senior citizen category, their recreational activities at their town hall could well be characterized as assistance to the aging as well as recreation.

In terms of **public safety**, it's clear that most of our communities do not have the same level of crime that say Silver Spring or Wheaton has. But living as many of us do on the edge of the district and near commercial areas in Bethesda and Kensington, we are subject to burglaries, robberies and everyday criminal acts. Because the County is limited, we augment what the County provides by hiring additional police---either through contracts with off-duty Montgomery County police or with the Chevy Chase Police department. We currently don't get reimbursed for any of the extra expenditures that we use for these services. We are not talking about "enhanced services" either, just basic patrols and attention to our specific needs---speed control on Connecticut Avenue and Brookville Road (both State highways) for example. The County has been very cooperative when we have had problems and brought in undercover people, forensic help, etc. But on a day-to-day basis, we don't feel that we have the coverage we would like and need. As it is, when the County gets a call for Chevy Chase, more often than not, they dispatch the Chevy Chase Village Police---for which they are not reimbursed, nor are we for their time in our communities under contract.

**Snow removal** in our communities is handled differently. A number of the Chevy Chase Towns and Villages provide additional snow shoveling for our elderly residents---specifically, the public sidewalks. This is an additional cost to us, but we feel it is a way to help retain these individuals in our communities while removing a major source of concern for them. It's not a matter of lack of funds necessarily that brings us to providing this service, but rather a lack of personnel. I don't know what category you have for services to the aging, but this is definitely one and some winters, it's a big number! Many of us also provide the names and addresses of young people in the community who wish to rake leaves and shovel snow for our residents---a service not provided by the County but a very meaningful one for our residents, particularly our senior citizens---many of whom provide major income and property tax revenues to both our municipalities and the County.

**Trash removal**....each municipality handles trash collection differently, but I believe we all provide twice a week pick-up for household trash, as the County once did before the advent of the "supercan" and budget cuts. Some of us have bulk trash pick-up a few times a year, others monthly, still others have a dumpster for residents to deposit larger items in. Most of us pay for rear yard pick-up of household trash, rather than once a week curbside as is done in the county. Aside from not wanting to give up this service, it's of great benefit to our elderly citizens, because it doesn't force them to haul trash cans out to the street. So while it's trash collection, it's also a service to the elderly...not something



that can easily be quantified (although I'm sure we could provide you with numbers on how many individuals are 65 and older in each of our communities).

**Social work**—connecting people. We all do extensive networking in our communities—there are clubs, special groups who meet on a regular basis, ways in which we minimize the isolation of everyone from elderly people living alone to young mothers at home with toddlers. Not only do these activities bring neighbors closer together, they I'm sure, prevent problems that might otherwise involve county social services agencies. In addition, many of the communities have active charitable donation drives for everything from socks and gloves to furniture, all to help the needy in both Montgomery County and Washington, D.C.

**Electricity**—In addition to the costs to maintain various offices and equipment, we all pay the electricity bills for state highways used by Montgomery County residents well beyond our borders. In addition to lighting the way for many more than our own residents, we are charged a tax to the County which is not reimbursed to us...and should be. When a light goes out, we are the ones who report the loss to Pepco...not a County representative. When we need a new light on a street, we pay the costs—but there is no line item for that in the tax duplication figures. In fact, we are shorted two ways---we light the way for County residents using state highways in our neighborhoods, and we pay a tax to Montgomery County for the privilege!

**Road Repair/ Signage**—All of the communities within Chevy Chase Towns and Villages monitor the condition of streets and sidewalks in a manner that would be impossible to do on a County-wide scale. We all have capital budgets and long-range plans for improvements. Almost all of us work on a pay-as-you-go basis, with some notable exceptions, meaning we don't schedule work until we know we have money in our pockets. Many of our municipalities are debt-averse. Hence you'll see some large reserves of cash, not unlike the County's "rainy day funds" but these funds are also set aside for large capital improvement projects—and for emergencies

One of the most difficult parts of our jobs when it comes to working with utilities is to **preserve the integrity of our streets**, maintain the normal flows of traffic and necessary services like garbage, school bus routes, etc., while utilities do work in our communities. While the county may have inspectors who randomly check work done by these agencies, we do much more in notifying our residents of work to be done, of working closely with each utility to insure that the standards of construction are maintained and that work is done in a safe and timely manner. Yet there is no line item that covers that particular much-needed service.

**Stormwater Management**—Because we are so densely populated and so many of our homes are close together, we are constantly challenged by run-off issues---between homeowners, into our streets, etc. Several jurisdictions have taken funds out of their budgets to hire engineering consultants to resolve these issues—something the County simply does not have the manpower to do. Nonetheless, these are problems that the



County would otherwise have to address were it not for the municipal government and the Village Managers who identify these people and work with them.

**Liability and other forms of Insurance**—The County and Friendship Heights are both self-insured, which means when they are sued because of a County-caused liability, the taxpayer—our taxpayers, foot the bill. Yet by having separately insured municipalities, much, albeit not all of the liability that the County might incur is paid for and covered by individual municipalities. We maintain our own streets, we maintain general liability insurance to cover any problems that might arise from accidents or problems caused by our negligence. And those of us who contract for police work pay additional insurance for that. The County doesn't cover those costs nor are we reimbursed. So in essence, our residents are on the tab twice as it concerns liability coverage---our taxes pay whatever claims may be made against the County, and our taxes pay for the liability and other insurance coverage we carry for problems which might occur within our jurisdictions.

**Legal and Accounting**—While the County has large offices handling legal and accounting responsibilities, municipalities hire specialists to perform these services. Most jurisdictions deal with the day to day accounting and bill paying, but auditing and reporting responsibilities are done by outside contractors. The County has legal counsel to assist in making decisions or handling suits brought by residents, individual municipalities must pay for those services as part of their operational expenses. When the County reviewed and negotiated with Verizon and other cable carriers, all the municipalities joined together to hire an attorney to review the same documents from the perspective of each municipality. We saved costs by joining together and getting Verizon to pay some of those costs, nonetheless, we required an attorney to review the documents for each of the municipalities.

**Recycling**—In addition to the normal recycling, many of our communities are actively involved both programmatically and fiscally in recycling efforts. We, instead of the County arrange for leaf removal in the fall and their recycling. In some areas, we vacuum up the leaves and bring them for recycling, in others, we use leaf bags because our streets are too narrow for large piles of leaves. But we handle the collection expenses, NOT the County. In some areas, we have encouraged residents to be "Green" by handing out compact fluorescent light bulbs to save on electricity charges, free shopping bags and other public education drives to bring people's awareness to ways to be more responsible citizens. Where do these expenses end up? It depends on the jurisdiction---anywhere from community promotion to waste collection---but they are a value-added service we provide not just for our residents, but for the County as a whole.

We ask that you consider all these items when you are reviewing tax duplication reimbursements and when you are making budget decisions which affect our communities. We remind you that municipalities represent about 16% of the overall population of the County and that many of your supporters live in our communities.

# MARYLAND GOVERNMENT REPORT

A POLICY RESEARCH SERIES FROM THE INSTITUTE FOR GOVERNMENTAL SERVICE  
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## DOUBLE TAXATION AND TAX DIFFERENTIALS IN MARYLAND

by  
Steven G. Shandy and Walter E. Wilson

The Institute for Governmental Service is pleased to re-introduce the *Maryland Government Report*, an occasional policy research series published two to four times annually. Since taxation is a topic of particular interest in difficult economic times, the Institute has chosen to address double taxation and tax differentials in Maryland.

Government Consultants Steve Shandy and Walter Wilson examine several causes of double taxation and summarize both the legal debate in Maryland over double taxation, which began as early as 1879, and state and local policy action. Finally, the Institute's methodology for calculating tax differentials is explained in a six-step process with examples for a small, medium, and large municipality.

Calculating tax differentials is a very complex and controversial issue. While the method of calculating tax differentials presented in this *Report* has been modified and used in several states, it is not the only method. Regardless of the formula used, however, cooperation, compromise, and good will between county and municipal officials is required in order to determine equitable compensation for double taxation. As Mr. Shandy and Mr. Wilson caution, tax differentials are not necessarily a "pot of gold at the end of a rainbow" for municipalities. Some municipalities may find that the compensation its county currently provides is more generous than an amount based only on a calculated tax differential.

Brian M. Gardner,  
Institute for Governmental Service

### INTRODUCTION

The Maryland Constitution and Code grant concurrent powers to municipalities and counties to levy taxes against real property.<sup>1</sup> Property taxes are the largest single revenue source for local governments in Maryland. In fiscal year 1988, property taxes accounted for roughly 29 percent of municipal revenues and 26 percent of county revenues. Because county and municipal governments levy taxes against the same property and because both are so dependent on property taxes as a source of revenue, conflicts surface occasionally for public debate. Chief among these conflicts between counties and municipalities is the issue of "double taxation" of municipal residents. A second conflict derives from the first: how to achieve fair and equitable compensation for double taxation.

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*A municipality that provides a number of services which the county also provides may discover that it can justify receiving compensation or additional compensation from the county. On the other hand, a municipality that provides only a few services may discover that the compensation it is currently receiving from the county is adequate or generous.*

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Double taxation has been defined as "two taxes of the same character ... imposed on the same property for the same purpose by the same taxing authority within the same jurisdiction during the same taxing period."<sup>2</sup>

## EXECUTIVE SUMMARY

Double taxation of property within municipalities results when a county and a municipality located within the county both levy taxes on the same property to support similar local government services that the property owner receives only from the municipality. Tax differentials are reductions in municipal property owners' county property tax rate to compensate for services that their municipality provides in lieu of similar county services. The county government may adjust the rate at which property owners within municipal corporations are taxed based on the number and type of services provided by that municipality. Similar services that are provided by the county only in unincorporated areas and by municipalities to their residents are defined as parallel services.

This *Maryland Government Report* will present the necessary background information to provide a thorough understanding of double taxation in Maryland and of the Institute's method of calculating tax differentials. In this *Report*, the authors have reached the following conclusions about double taxation and tax differentials in Maryland:

- Double taxation occurs when municipal residents pay property taxes to the local governments of the municipality and county in which they reside to finance identical or similar services that they receive from only one source.

- Double taxation in Maryland occurs because municipal and county governments both have the authority to levy taxes on real property within their jurisdictions. Unlike many states, Maryland law grants county and municipal governments "concurrent" rather than "exclusive" authority to tax property within municipal corporations.

- A tax differential is a method of compensating for double taxation that directly benefits the municipal taxpayer; whereas, a tax rebate compensates the municipal government to aid in financing municipal services in lieu of county services.

- State law requires that each county shall meet annually with the governing body of each municipality to discuss the rate of county property taxation, but the law does not require that each county adjust its tax rate to compensate for double taxation.

- Most Maryland counties provide some degree of compensation to municipal governments that provide services to residents in lieu of similar county services.

- Double taxation of property owners in municipalities occurs but may not be as widespread as commonly thought due to the high degree of state-shared revenue that funds municipal services and increased county action to provide tax differentials or rebates.

- According to the Institute's methodology for calculating tax differentials, the amount of the tax differential directly corresponds to the number and level of services that a municipality and county provide. The higher the number and level of municipal services, the larger the differential; the lower the number and level of municipal services, the smaller the differential. Similarly, the higher the number and level of county services that parallel similar municipal services, the larger the tax differential; the lower the number and level of county services that parallel municipal services, the smaller the differential.

- It is possible that no tax differential could be awarded to small municipalities that provide very few services. In order to justify a tax differential from the county, a municipality must provide a sufficient number of services to offset the state-shared revenue that it receives.

Municipalities and counties may use the methodology for calculating tax differentials presented in this *Report* to estimate the amount of double taxation that may exist in their fiscal relationships and compare it to their current level of compensation. A municipality that provides a number of services which the county also provides may discover that it can justify receiving compensation or additional compensation from the county. On the other hand, a municipality that provides only a few services may discover that the compensation it is currently receiving from the county is adequate or generous.

However, double taxation can also result when two different taxing authorities, a county and a municipality located within the county, levy taxes on the same property to support similar local government services. At one time or another, double taxation has been an issue in most Maryland counties and in the General Assembly. It has been studied by the State Department of Fiscal Services, by State Commissions on City-County Fiscal Relationships (1959) and on Taxation and Fiscal Matters (1970), by a private financial consultant (Davon Management Group), and by the Institute for Governmental Service at the University of Maryland.



During the last fifteen years, various municipal and county governments have requested that the Institute for Governmental Service study the problem of double taxation for their specific jurisdiction and make recommendations to alleviate its effects. To respond to these requests, the Institute, with the assistance of the State Department of Fiscal Services, devised a methodology for identifying similar county and municipal services funded by property taxes and for calculating "tax differentials" to alleviate the effects of double taxation.

Tax differentials are reductions in municipal property owners' county property tax rates to compensate for services that their municipality provides in lieu of similar county services. The county government may adjust the rate at which property owners within municipal corporations are taxed based on the number and type of services provided by that municipality. These include such services as street maintenance, police protection, parks and recreation, garbage collection, planning and zoning, fire and rescue, and libraries. These services, provided by the county in unincorporated areas and by many municipalities to their residents, are defined as "parallel" services. An alternative form of county compensation to offset the effects of double taxation is the tax rebate. Rather than providing a lower rate of taxation to municipal property owners, the county returns property tax revenues to the municipal government to assist in financing parallel services.

This issue of *The Maryland Government Report* examines the double taxation of property within municipalities and the method of compensating for double taxation through tax differentials. The following sections discuss the causes of double taxation, the legal debate over double taxation, state and local policy regarding tax differentials, the effects of local government revenue sources on double taxation and tax differentials, and the Institute's methodology for computing tax differentials and tax rebates to alleviate double taxation. In examining these topics, the *Report* attempts to dispel some commonly held myths about double taxation and tax differentials in Maryland.

### Causes of Double Taxation

There are several causes of double taxation of property within municipal incorporations. In Maryland, county and municipal taxation of the same property and the dependence upon the property tax as a source of revenue is one cause which has already been discussed. Three other principle causes of double taxation are as follows: population growth

that has outpaced municipal annexation or has not been dependent upon the incorporation of new municipalities, the legal delegation of similar powers and functions to counties and municipalities, and the evolution of counties into full-service, local governments. Moreover, these causes of double taxation are not particular to Maryland but have been experienced to greater and lesser degrees in other states.

The traditional role of American county government has been to function as a subdivision of the state government in administering functions of statewide concern such as the maintenance of roads and highways, law enforcement, the criminal justice system, and welfare.<sup>3</sup> While municipalities are also administrative subdivisions of the state, their traditional functions are to provide the services their residents desire.<sup>4</sup> Typical services that municipalities provide include: water and sewer systems, street construction and maintenance, police and fire protection, and garbage collection.

Traditionally, desires for these services by non-municipal residents have been met through annexation of such areas into the municipality or the incorporation of a new municipality to provide these services.<sup>5</sup> However, property owners and developers have turned to county governments as alternative urban service providers when municipalities have been unable or unwilling to annex such areas or when economic factors such as high municipal taxes, expensive land values, and deteriorating infrastructures provide disincentives to annexation.<sup>6</sup> In an effort to meet these new responsibilities, county governments have used countywide revenues to support all county services, regardless of who benefits.

As the populations in unincorporated areas increased and the demands for municipal-type services grew, counties responded by providing services to residents in unincorporated areas. For example, one analyst noted the growing county provision and coordination of water and sewer services in 1965 by stating:

*The roles of Baltimore City, the Washington Suburban Sanitary Commission, and the sanitary commissions of Anne Arundel, Howard, and Baltimore Counties have virtually precluded the development of numerous, small municipal program systems within the area...In the counties beyond the metropolitan corridor, the recent creation of sanitary commissions in seven counties...signals the emergence of county governments in what has been heretofore a municipal program.<sup>7</sup>*

While the existence of an incorporated area within a county that provides countywide services is a necessary condition for double taxation to occur, that alone is not sufficient. Counties must also have governmental powers that allow them to provide urban services parallel to those

services provided by municipalities. If a county's governmental powers are limited to providing certain county-only services, such as public education and the court system, double taxation cannot exist. Some other governmental means has to be developed to supply urban services to residents of unincorporated areas, such as special districts.

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*There is no rational guide for determining which services municipalities should perform and which services counties should perform. The delivery of certain services at the county level may be more efficient due to economies of scale and the specialization of skills that a larger organization can realize.*

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Article 25 of the *Annotated Code of Maryland* enumerates the express powers of counties, which include many functions and powers similar to the powers of municipalities found in Article 23 of the Code. Common powers and functions include providing streets and highways, police protection, planning and zoning, libraries, parks and recreation. As a consequence, while double taxation is commonly perceived to occur more often in those counties with urbanized, unincorporated areas, it may in fact occur in any county, whether predominantly rural or urban.

Nonetheless, urbanization has been a major catalyst for county provision of urban services and hence the problem of double taxation. In fact, urbanization in several counties has caused the demand for municipal-type services to increase to such a degree that these counties have sought additional powers from the State and adopted charter home rule forms of county government. The Maryland Constitution provides for county home rule powers in Article XI-A that are very similar to the powers of municipal home rule enumerated in Article XI-E of the Constitution.<sup>8</sup> As a result, in recent decades several Maryland counties have assumed the role and functions of full-service, general-purpose local governments. Currently, 8 of the 23 counties in Maryland have charter home rule governments, and 5 have more limited "code" home rule.<sup>9</sup> Consequently, the role of municipal government as urban service provider is now shared with county governments.

The role of county governments as urban service providers in Maryland is even more apparent when one considers that even though Maryland is a highly urbanized state, residents of municipalities (excluding Baltimore City), account for less than 15 percent of the state's total population.<sup>10</sup> In addition, municipal expenditures for urban services account for less than 5 percent of total expenditures by all local governments (counties and municipalities) in Maryland.<sup>11</sup> Thus, most residents of urbanized areas

receive "urban" or "municipal-type" services from county governments rather than municipal governments.

Not all county governments in the country function in this way. For example, in the New England States, urban areas have developed under local units such as towns, townships, and special purpose districts. These local governmental units, which cover smaller geographic areas, provide most of the public services, while the counties primarily administer the judicial system. Southern and far Western States, on the other hand, tend to rely on counties as general-purpose units of government rather than on special districts, towns, or townships. Therefore, Southern and far Western States may have two types of general-purpose local governments — counties and municipalities — that exercise a similar range of powers and that have overlapping territorial boundaries.<sup>12</sup>

There is no rational guide for determining which services municipalities should perform and which services counties should perform. The delivery of certain services at the county level may be more efficient due to economies of scale and the specialization of skills that a larger organization can realize. Counties also have larger tax bases and thus have greater resources to fund urban services. However, municipal governments may be most directly connected to the people they serve and may be in a position to provide the highest degree of responsiveness and accountability to the public. Therefore, the allocation of service responsibilities among counties and municipalities will likely depend upon such factors as the service demands and preferences of the resident populations, the degree of urbanization of a county, and the resources available from local tax bases.

### **The Legal Debate Over Double Taxation**

The legal debate over double taxation in Maryland has generally focused on two questions: 1) does Maryland law permit municipalities and counties to tax the same property to fund the same services, and 2) if "double taxation" is legal, may counties levy lower property tax rates for municipal residents or make compensatory payments to municipal governments? Both of these questions originate from the relationship between counties and municipalities established in the Maryland Constitution and in state law. Various states respond differently to the issues raised by these two questions. For example, Florida prohibits "double taxation" of municipal residents; whereas, Georgia does not recognize county and municipal taxation of property within municipalities as double taxation. In one hundred years of case law, the State of Maryland has consistently answered questions concerning both the legality of double taxation and discounted county property tax rates in the affirmative.

Article XI-A of the Maryland Constitution and Section 5(O) under Article 25A of the *Annotated Code of Maryland*



authorize county taxation of real property. Article XI-E of the Constitution and Section 2 under Article 23A of the Code provide for municipal taxation of real property. These concurrent taxing powers are also governed by Article 15 of the Maryland Declaration of Rights, which maintains that all State, county, and municipal taxes in Maryland:

*...shall be uniform within each class or sub-class of land,...yet, fines, duties or taxes may properly and justly be imposed, or laid with a political view for the good government and benefit of the community.*

The provision that taxes be "uniformly" applied within counties appears to inhibit reductions in county tax rates to compensate for municipal delivery of services in lieu of similar county services. However, Maryland case law has permitted legislative enactments providing tax rate differentials for municipal residents on the condition that the differential does not relieve municipal property owners of all tax liability for county services.<sup>13</sup>

Legal debate in Maryland over double taxation goes back at least to the "Laurel cases" of 1879 and 1889. The original case concerned a law enacted by the Maryland General Assembly which mandated that county property taxes levied within Laurel for road purposes be returned to the Town to fund road improvements within the corporate limits. The Maryland Court of Appeals held that the statute did not infringe upon the "uniformity" provision of the Declaration of Rights.<sup>14</sup> This decision was reaffirmed in a 1914 case that examined a similar issue involving Carroll County and the City of Westminster.<sup>15</sup> The Carroll County case upheld an act of the General Assembly requiring the County Commissioners to pay the City of Westminster one-half of the annual county property tax revenue collected within that city's corporate limits to fund municipal roads.

The second Laurel case invalidated a law passed by the General Assembly that sought to return all county taxes levied within Laurel to the Town to fund any "desirable improvements the Town Commissioners might find proper."<sup>16</sup> The Maryland Court of Appeals held that such a blanket exclusion from county property taxation constituted "a plain violation" of Article 15 of the Maryland Declaration of Rights.

The Maryland Court of Special Appeals handed down its most authoritative opinion on the question of double taxation in Maryland in the 1975 case of *Griffin v. Anne Arundel County*.<sup>17</sup> Griffin and other property owners of the City of Annapolis claimed that Article 15 of the Maryland Declaration of Rights requires a county to remit to a municipal corporation a portion of the proceeds of county property taxes collected within the municipality. Furthermore, the Annapolis property owners alleged that the county property tax rate differential in effect at the time was arbitrary and represented only one-third of the amount to

which municipal residents were lawfully entitled; thus, the county was violating the due process clause of the Fourteenth Amendment to the U.S. Constitution.

The court held that the Fourteenth Amendment required merely that proceeds from the county property tax be employed for the benefit of county residents and not to the exclusive benefit of the property owners who are taxed. The court also ruled that the Declaration of Rights did not require a county to remit to a municipal corporation a portion of the proceeds of the county property tax collected within the confines of the municipality, although such remission is permissible through legislative action.

The legal debate over double taxation in Maryland is aptly summarized by the following excerpt from the court's opinion in the *Griffin* case:

*Fundamental considerations of fairness indicate that the City of Annapolis — and perhaps other municipalities throughout Maryland — may be entitled to more equitable tax treatment than they receive.... [Nonetheless,] we have found that appellants in this case are without a judicial remedy; but even if their cause were amenable to judicial intervention, the very nature of the problems involved in adjusting City-County taxation, with their complex economic and policy considerations argues persuasively for legislative rather than judicial action.*

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*[The]...history of double taxation case law demonstrates that states differ in how they view double taxation and in their policies to accept, deny, or alleviate double taxation.*

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In contrast to Maryland, the State of Florida has a constitutional prohibition against double taxation and statutory provisions for specific remedies. That prohibition is found in Article VIII, Section 1(h) of the Florida Constitution which specifically provides that:

*Property situated within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents in unincorporated areas.*

The Florida Supreme Court, however, has narrowly construed the exclusivity clause. The court developed a "substantial benefit" test in the 1970 case of *St. Petersburg v. Briley, Wild & Associates, Inc.* by ruling that county taxation of municipal properties is barred only when county services bring to municipal property owners no "real or

substantial benefit."<sup>18</sup> The court held that tax-supported expenditures for a county sewage treatment plant, although it was not to be used by the county's municipalities, nevertheless benefitted the residents of those municipalities by preserving their health. This was true even though no lines, mains, pumping stations, or other physical facilities were constructed within city boundaries. The court stated that a reduction in pollution from open sewage discharge was substantial enough to be of countywide benefit, and hence, should be financed from countywide revenues. Other Florida appellate decisions handed down in the late 1960s and early 1970s have upheld the use of city-derived property tax revenues for a county fire department,<sup>19</sup> for county sewer facilities,<sup>20</sup> and for county roads, canals, and related improvements.<sup>21</sup>

Conversely, enforcement of Florida's constitutional prohibition against double taxation has led to the creation of formulas with which counties must provide tax rebates to the cities. In the case of *Manatee County v. Longboat Key*, certain municipalities brought an action to recover taxes paid for services rendered for the exclusive benefit of residents and property owners of unincorporated areas of the county. The District Court of Appeals held that once those county services providing no real or substantial benefits to municipal property owners have been identified, a vehicle must be devised whereby the cost of such services is paid only by those in unincorporated areas. The county must levy special taxes on all property in unincorporated areas, establish municipal service taxing units, or rebate the identifiable cost of such services which is funded by taxes levied on property within the municipality.<sup>22</sup>

In contrast to Florida's mixed legal history, the legal environment in Georgia has been consistently against the proposition that double taxation exists. Unlike Florida, the Georgia Constitution does not prohibit double taxation. The controlling legal reasoning in Georgia says that since all citizens are residents of the county in which they live, they cannot be relieved of paying county taxes by choosing to live within the boundaries of a municipality.<sup>23</sup> Thus, for Georgians residing in incorporated areas, not only does double taxation exist, it does so with no legal restraints and is thereby unamenable to judicial scrutiny.

In 1971, the State of Utah adopted a statutory provision under which certain classes of counties could provide municipal-type services solely to unincorporated areas. The counties were required, however, to cover the entire cost of those services with property tax revenues from the unincorporated areas or user fees imposed on the beneficiaries of the services or a combination of both. The Utah Supreme Court confirmed the validity of this requirement in a 1976 case resulting from a lawsuit filed by Salt Lake City against Salt Lake County.<sup>24</sup> The court ruled on behalf of the city and prohibited the county from using

city-generated revenues to fund services provided only to unincorporated areas of the county.

This brief history of double taxation case law demonstrates that states differ in how they view double taxation and in their policies to accept, deny, or alleviate double taxation. Maryland's constitution, statutes, and case law accept double taxation as a natural result of the shared powers and functions granted by this state to both counties and municipalities. However, Maryland law does authorize local governments to alleviate the effects of double taxation, and a number of Maryland counties have exercised this authority by developing various policies to compensate for double taxation.

### State and Local Policy Action

Prior to the decision of the Maryland Court of Special Appeals in *Griffin v. Anne Arundel County* in 1975, a few counties had already acted to remedy or at least compensate for double taxation of municipal residents. In addition, the Maryland General Assembly considered double taxation and tax differentials on several occasions before the *Griffin* decision and reached the same conclusion as the court: that legislative remedies negotiated at the local level between each individual county and its municipalities would provide the most effective solution to the problem of double taxation.

Caroline County was one of the first subdivisions in the state to grant municipalities compensation to help them fund municipal services provided in lieu of similar county services. In 1930, the county compensated municipalities with a property tax rebate. The Maryland General Assembly enacted local legislation authorizing Caroline County to make payments to its municipal governments equal to six percent of the county property taxes collected within each town to assist in improving and repairing streets, alleys, and roads.<sup>25</sup>

Harford County was the first subdivision in the state to grant property tax differentials to municipal residents owning real property. The Maryland General Assembly adopted a public local law in 1953 that established a tax differential for municipal residents in Harford County. The law restricted the county from levying taxes on property within municipalities to fund the following county services: the maintenance and construction of county roads outside municipalities; the services of the county highways department and roads engineer; road and highway lighting; and the construction, acquisition, and maintenance of dumps for the use of non-city residents.<sup>26</sup>

In 1959, the Maryland General Assembly appointed the Commission on City-County Fiscal Relationships to study tax differentials and the problem of creating a consistent basis for determining county tax differentials.<sup>27</sup> The commission concluded the following:



*...no single solution [can] be developed to fit the varying needs of the State, but ... any possible solutions must be developed on a county-by-county basis, bearing in mind the character of the respective local governments involved, the nature of services which they render, and the needs and desires of their citizens.*<sup>28</sup>

The committee recommended that county and municipal governments create commissions at the county level to identify governmental activities that may have financing inequities between municipal and county taxpayers and to devise solutions that would alleviate existing problems.<sup>29</sup>

The 1970 General Assembly established the Committee on Taxation and Fiscal Matters, which issued a report entitled *County Property Tax Rate Differential for Municipal Residents*.<sup>30</sup> The Committee's report included at least three findings that are relevant today.

First, the committee discovered instances in Maryland in which municipal residents paid county taxes for services that the county did not provide to them. Second, the committee found that the allocation of state-shared taxes among the counties and municipalities created instances where municipalities received a disproportionate share of revenues for the type of services provided.<sup>31</sup> The result was that "while some municipal residents [were] being subject to double taxation, some municipal residents [were] receiving double benefit from the allocation of non-property (state-shared) revenues."<sup>32</sup> Third, the committee concluded that in correcting some inequities, the State might promote uneconomical or ineffective delivery of services by small units of government.

The Committee on Taxation and Fiscal Matters reasoned that the first finding supported instituting tax differentials to provide greater tax equity for municipal residents, but that the second and third findings tended to downplay the negative effects of double taxation. Furthermore, the committee noted that several counties were actively providing some compensation to municipal governments in recognition of double taxation. Therefore, the committee reached a conclusion similar to that of the 1959 Committee on City-County Fiscal Relationships: corrective state-wide legislation to mandate tax differentials should not be enacted. Instead, the committee strongly urged each county to discuss its fiscal relationships with its municipalities and act at the local level to eliminate double taxation of municipal residents.

It was not until 1975 that the Maryland General Assembly enacted a general public law, which applies to more than one county, addressing the issue of tax differentials. The law followed the guidelines of the two previous commissions, permitting but not mandating county adoption of tax differentials:

*The Board of County Commissioners or the County Council, after consultation with municipal officials, may levy a tax on the assessable property located within one or more of the municipal corporations of the County, which is less than the general County property tax rate, if the municipal corporation performs governmental services or programs in lieu of similar County governmental services or programs.*<sup>33</sup>

In effect, this law required counties to consider possible double taxation of municipal residents and authorized them to levy property taxes at lower rates within municipalities that provided services or programs in lieu of similar county services. As an alternative, counties were permitted to make a payment to the municipal corporation rather than reduce the county property tax rate.

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*Current Maryland law still requires that each of the 23 counties "meet annually and discuss" with the municipal governments within the county the county property tax rate to be set in the municipal corporation.*<sup>34</sup>

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Current Maryland law still requires that each of the 23 counties "meet annually and discuss" with the municipal governments within the county the county property tax rate to be set in the municipal corporation.<sup>34</sup> However, state law now mandates that Allegany, Anne Arundel, Baltimore, Garrett, Harford, Howard, Montgomery, and Prince George's counties "shall impose" taxes on property within a municipality at a rate less than the rate set for property outside the municipal corporation.<sup>35</sup> Alternatively, these counties may still choose to direct a tax rebate to a municipal corporation rather than impose a lower tax rate on real property located within a municipality. In determining the county property tax rate to be set in municipalities these counties shall consider: (1) the services and programs that the municipal corporation provides in lieu of similar county services and programs and (2) the extent to which property tax revenues fund similar services and programs.<sup>36</sup>

The remaining fifteen counties "may impose" the county property tax on assessments of property in a municipal corporation at a rate that is less than the rate set for assessments of property in the parts of the county outside the municipality.<sup>37</sup> However, none of these fifteen counties are mandated to provide tax differentials or tax rebates to municipal corporations within their boundaries.

Table 1 summarizes the current practices of Maryland counties in providing tax differentials and rebates. Seven counties provide tax differentials, and eleven counties provide tax rebates. Baltimore and Howard Counties do not have any municipalities. Garrett County reported to the Department of Fiscal Services that no municipalities within the county provided services in lieu of similar county services.<sup>38</sup> Finally, Wicomico and Worcester Counties do not provide tax differentials or tax rebates.

Table 1 also lists the services that each county considers as "parallel" to similar municipal services when calculating their differential or rebate. The number of parallel services

provided by the county government is a critical issue because generally the greater the number of parallel county services, the greater the tax differential. For example, municipal residents in Prince George's County may receive a tax differential for police, fire, public works, property and animal control, and community development services because the county provides these parallel services to residents of unincorporated areas. In contrast, municipal residents in Kent County may receive a tax differential to compensate for county police service and gypsy moth abatement only.

**Table 1**  
**Counties Providing Tax Differentials**  
**or Tax Rebates to Municipal Property Owners**

**Tax Differentials**

Allegany  
 Anne Arundel  
 Calvert  
 Charles  
 Harford  
 Kent  
 Prince George's

**Tax Rebates**

Caroline  
 Carroll  
 Cecil  
 Dorchester  
 Frederick  
 Montgomery\*  
 Queen Anne's  
 St. Mary's  
 Somerset  
 Talbot  
 Washington

**Parallel County Services Excluded from**  
**Taxation of Property within Municipalities**

planning and zoning, police, public works,  
 road maintenance, solid waste disposal  
 planning and zoning, police, fire, public  
 works, recreation  
 police, road maintenance, solid waste disposal, and street lighting  
 planning and zoning, police, public works, road maintenance, parks  
 road and bridge maintenance and construction  
 police, gypsy moth abatement  
 police, fire, public works, property and  
 animal control, community development

road construction and maintenance  
 grant for general purposes and a rebate for police and street  
 maintenance  
 grant for general purposes  
 police, street and boat ramp maintenance  
 police, road maintenance, solid waste collection, parks  
 street and road maintenance  
 street and road maintenance  
 grant for general purposes  
 police, road maintenance  
 general purposes  
 police, road and park maintenance

\*Note: Montgomery County also provides a tax differential to the residents of Takoma Park to compensate for municipal support of local fire services.

Source: Department of Fiscal Services, *1989 Report on County-Municipal Tax Differentials*, Annapolis, Maryland, December 1989.



**Table 2**  
**Sources of Local Government Revenue**  
**as a Percent of Total Revenue**  
**Fiscal Year 1988**

Source	Percent of Total Revenue	
	<u>Municipalities</u>	<u>Counties</u>
Property Taxes	28.8 %	26.1%
Service Charges (User Fees)	26.3	9.8
Miscellaneous Revenues	8.3	4.5
Debt Proceeds	8.1	3.1
Income Taxes	5.7	14.2
State-shared Taxes	4.9	4.0
Federal Grants	4.8	8.0
State Grants	4.2	23.6
County Sources	3.7	—
Licenses and Permits	2.3	.8
Other Local Taxes	1.6	5.9
Fines and Forfeitures	.7	.1
Other Intergovernmental Sources	.6	.1
Total	100.0 %	100.2%

Source: Maryland State Department of Fiscal Services, *Local Government Finances in Maryland, Fiscal Year 1988*, pp. 119-120; 333-340.

In short, since the General Assembly actions in the mid-1970s and the *Griffin* case of 1975, most Maryland counties have acted to remedy or alleviate the effects of double taxation. Therefore, the recommendations of the two state commissions that solutions to double taxation of property within municipalities be implemented on a county-by-county basis are being realized. However, calculating the severity of double taxation and evaluating the fairness of county compensation for double taxation requires an examination of the fiscal relationships between counties and municipalities, particularly the various sources of local government revenue that fund parallel services.

### Sources of Local Government Revenues

Double taxation of real property occurs because counties and municipalities levy property taxes on the same property to fund parallel service expenditures. Calculations of tax differentials and tax rebates are based on the amount of tax revenue derived from property within a municipality to fund the county's parallel services. All "non-property tax revenue" that funds parallel county services, therefore, must be excluded from the tax rate differential provided to municipal residents. Consequently, the sources of local

government revenue, whether property tax or non-property tax, and the relative amounts that each contributes to county expenditures for parallel services directly impact the amount of tax differential necessary to offset double taxation of property owners within incorporated municipalities.

Table 2 shows the sources of municipal and county revenue and the percentage that each source contributes to total revenues, on average, for all of Maryland's municipalities and counties in fiscal year 1988. For example, property taxation accounted for 29 percent of all municipal revenue and 26 percent of all county revenue in Maryland during fiscal year 1988.

As Table 2 indicates, property taxes are the single largest source of revenue for both municipalities and counties; however, double taxation may be more limited than commonly recognized. Roughly three-fourths of all county service expenditures are not funded from property tax revenue and thus not funded through double taxation. In other words, only 26 percent of all county service expenditures may possibly be derived, in part, through double taxation. The following example illustrates the effect of non-property tax revenues in limiting the scope of double taxation.<sup>39</sup>

For simplicity, the following assumptions have been made: (1) All county service expenditures are funded from the various revenue sources listed in Table 2 at the proportion each contributes to total funding (i.e., property taxes fund 26 percent of the total cost of each county service). (2) The county government provides parallel services to residents in unincorporated areas of the county that are similar to every service a municipal government provides to its residents. (3) The county levies the same property tax rate for residents within the municipality as in unincorporated areas. (4) The county property tax rate is \$3.00, and the county government wants to adjust this rate to eliminate double taxation of property located inside the municipality.

Under these assumptions, the differential should be equal to the county property tax rate, \$3.00, multiplied by .26, the percentage that property taxes fund the parallel services. This would allow municipal residents a \$.78 tax differential, and the county property tax rate in the municipality would fall to \$2.22. The amount of the tax differential cannot exceed the equivalent proportion of county property tax revenues that fund parallel county services.

In reality, few counties provide parallel services similar to every service a municipality provides to its residents. Furthermore, state-shared revenues returned to local governments partially finance parallel services and thereby reduce the amount of double taxation. State-shared revenues subsidize local government expenditures for certain specific services, such as highway and street maintenance and police protection. The State also collects revenue from several other major sources and shares these funds with local governments. Table 3 lists these sources of shared revenue, which include income taxes, state-shared taxes, other local taxes, and revenue from licenses and permits.

The following example illustrates how state-shared revenues subsidize local provision of a parallel service and further reduce the amount of double taxation. A municipality spends \$100,000 for its police department and must levy a property tax of \$.20 per \$100 assessed valuation to generate the necessary revenue. The county government also provides police service, spending \$1,000,000, and levies \$.20 against its larger property tax base to generate the necessary revenue. Thus, the total rate of property taxes paid for parallel police services by the municipal resident is \$.40 per \$100 assessed valuation.

However, if the State funds a grant-in-aid program that provides one-quarter of the costs of local police protection, a property tax rate of \$.15 per \$100 assessed valuation in both the city and county would be sufficient to raise the same amounts of total revenue for police protection. State-shared revenue, therefore, reduces or offsets the

double taxation to support parallel police services from \$.40 to \$.30 per \$100 assessed valuation.

The amount of state-shared revenue generated by Maryland's tax structure and allocated to counties and municipalities has a substantial impact upon the justification for, and the size of, tax differentials. If a municipality provides very few services, it is possible that the state-shared revenues received by the municipality to help it fund these services will exceed the equivalent amount of county property tax levied against municipal residents to fund a parallel county service. In this case, no tax differential would be awarded.

The Maryland Department of Fiscal Services calculated tax differentials for each municipality in the state for the 1970 report of the Committee on Taxation and Fiscal Matters. The department's calculations concluded the following: seven counties would have levied a lower property tax rate for all municipal residents; four counties would have levied a lower property tax rate for residents in some of their municipalities and a higher property tax rate for residents in other municipalities; nine counties would have levied a higher property tax rate for residents in all of their municipalities; and one county would have levied the same rate within municipalities as in the county. The number of municipalities entitled to reductions in county property tax rates totalled 59; whereas, the number of municipalities that would have received increases in county property taxes totalled 88.<sup>40</sup>

In general, the greater the municipal and county dependence upon property taxes to fund parallel services, the greater the tax differential. Conversely, the greater the municipal and county dependence on "non-property tax" revenue to fund parallel services, the smaller the tax differential.

### **The Institute's Methodology for Calculating Tax Differentials**

This section presents step-by-step calculations to determine tax differentials and tax rebates for a hypothetical municipality that provides a "medium" number of parallel services. As a general rule, the greater the number of services a municipality provides in lieu of parallel county services, the larger the tax differential. On the other hand, the smaller the number of services a municipality provides in lieu of similar county services, the smaller the tax differential.<sup>41</sup>

Table 4 illustrates this conclusion by contrasting the tax



**Table 3**  
**Allocation of State-shared Tax Revenue and Grants**  
**in Counties and Municipalities**

<u>Revenue Source</u>	<u>Counties</u>	<u>Municipalities</u>
Local Income Tax (a)	Yes	Yes
Other Local Taxes		
Admissions & Amusement (b)	Yes	Yes
Recordation Taxes	Yes	No
Local Property Transfers	Yes	No
Local Sales Tax (c)	Yes	Yes
Trailer Park (b)	Yes	Yes
State-shared		
Transportation Trust Fund	Yes	Yes
Other State-shared		
Beer Tax	Yes	No
Distilled Spirits (Liquor) (d)	Yes	Yes
Tobacco	Yes	No
Corporation Taxes & Fees	Yes	Yes
Franchise Tax	Yes	No
Licenses & Permits		
License Fees	Yes	Yes
State Grants		
Education	Yes	No
Community Colleges	Yes	No
Health	Yes	No
Libraries	Yes	No
Public Safety	Yes	Yes
Miscellaneous	Yes	No

**Notes:**

- (a) The income tax is actually a local tax from which the county must share a portion with the municipalities, although it is collected by the state.
- (b) The admissions tax and trailer park tax are actually concurrent taxes levied by the county or the municipal corporation rather than shared.
- (c) The local sales taxes are shared with various municipalities consistent with local law but are not shared generally with all municipalities in the state.
- (d) Only three counties, Anne Arundel, Harford and Somerset, share revenues from the liquor tax with municipalities.

Source: Maryland State Department of Fiscal Services, *Legislator's Guide to State and Local Fiscal Relationships*, November 1986.

differential calculations for the "medium" municipality with similar calculations for two other hypothetical municipalities, one providing fewer services and the other, a larger number of services. The left column includes calculations for the municipality providing a "small" number of services and the right column shows those for the municipality providing a "large" number of services. (Hereafter, these are designated as municipality "S" (small), "M" (medium), and "L" (large).) The discussion of each step of the methodology is valid for all three municipalities, although the text enumerates each step to calculate the differential for municipality "M" only.

Municipality "S" would not receive a tax differential because the state-shared revenue it received to subsidize the one parallel service it provides exceeded the amount of county property tax revenue levied within the city to fund the similar county service. The calculations for municipality "L," conversely, result in a large, positive tax differential. This occurred because municipality "L" provides numerous parallel services and the county where it is located spends several million dollars on the services that residents of municipality "L" receive instead from their municipal government.

A few observations regarding the use and source of financial data in calculating tax differentials are necessary before discussing the Institute's methodology. First, county expenditures and revenues must be used in calculating tax differentials because the tax differential is a reduction of the county property tax rate for county services that municipal residents receive from their municipal government instead of from the county. Second, the most accurate and reliable expenditure and revenue data for local governments are available from the State Uniform Financial Reports filed annually by each county and municipality with the Maryland Department of Fiscal Services. Third, actual expenditure data for the prior fiscal year should be used in the calculations rather than budgeted data for the current fiscal year because budgeted data is less reliable due to uncontrollable fluctuations of revenue and expenditure. Finally, tax differentials should be recalculated annually because the amount of double taxation of property within municipalities will change in accordance with annual changes in county revenues and expenditures for parallel services.

#### **STEP ONE: Review and Classify County Services that Parallel Municipal Services**

Because counties and municipalities do not provide exactly the same number and type of services, one must analyze their Uniform Financial Reports to identify county services that parallel or duplicate municipal services. Therefore, the first step in calculating tax differentials is to analyze municipal service expenditures to determine what services the municipality provides and review county service expenditures to classify each county service as either "parallel" or "countywide."

Parallel services are those services which the county provides outside the municipality that are similar or equivalent to services that the municipality provides to its citizens. Services most often identified as parallel include police and fire protection, highway and street maintenance, planning and zoning, solid waste removal, water and sewer, inspections, and parks and recreation.

#### **Municipality M: Parallel County Services**

General Government  
 Highways and Streets  
 Planning and Zoning  
 Police

#### **STEP TWO: Calculate Total County Expenditures for Parallel Services**

Once each county service which parallels a similar municipal service is identified, one must evaluate the municipal and county expenditures for these services in

order to exclude them from the municipal resident's county property tax liability. However, municipalities may not fully provide each service in lieu of a parallel county service. In such cases, the municipality may be entitled to partial but not full credit for providing these services.

For example, the county in which municipality "M" is located provides general government services, including political representation, financial administration, and administration of all county services and departments, legal fees, and general services. However, not all but only some of the county's general government expenditures support parallel services. The remainder of county spending for general government supports additional county services or programs that are not duplicated by municipality "M" and thus are not included in the tax differential. Therefore, municipality "M" is entitled to only a partial exemption from county taxation to support general government based on the "service rate" or degree to which the county provides the parallel service.

Service rates may be appropriate for other parallel services in addition to general government, such as police (if operational less than 24 hours per day) and volunteer fire and rescue services.<sup>42</sup> To illustrate, if municipality "M" provided police service from 6:00 a.m. to 12:00 midnight and relied on county police service from 12:00 midnight to 6:00 a.m., a service rate of .75 would be appropriate. (The county's police service is parallel during 75 percent of the day, and countywide the other 25 percent.) Municipality "M" would thus receive a 75% rather than 100% exclusion from county property taxation for police service: service rate of .75 multiplied by county expenditures for police of \$330,064 equals \$247,548.

In the example below, the figures in the first column represent the service rate or the rate at which the county and municipality provide the given parallel service. The second column shows the county's total expenditures to provide the parallel service to county residents.<sup>43</sup> The third column lists the total allowance for which municipal residents should receive property tax differentials. In order to simplify the analysis, service rates are used for general government expenditures only. (Table 4 reflects expenditure and revenue data from the third column only for the three municipalities.)

For municipality "M" all parallel services except general government receive a full exemption (service rate = 1.00) because the municipality fully provides each of these services within the town. However, because county expenditures for parallel services represents 16.5 percent of total county expenditures, a service rate of .165 is appropriate for general government. Thus, municipality "M" is entitled to a total allowance of  $.165 * \$787,619 = \$129,800$  for general government.



**Municipality M: County Expenditures for Parallel Services**

	<u>Rate</u>	<u>County Expend.</u>	<u>Total</u>
General Government	0.165	\$ 787,619	\$ 129,800
Highways and Streets	1.00	2,046,740	2,046,740
Planning and Zoning	1.00	184,408	184,408
Police	1.00	<u>330,064</u>	<u>330,064</u>
Total		\$ 3,348,831	\$2,691,012

**STEP THREE: Calculate Parallel Service Non-property Tax Revenues**

It is not possible to calculate directly the amount of county property tax revenue that is used to fund parallel county services. Revenues that finance all county service expenditures originate from two sources: property tax revenue and non-property tax revenue. Tax differentials are calculated from county property tax revenues only. Consequently, non-property tax revenues must be deducted from the total allowance for parallel service expenditures estimated in step two to calculate indirectly the amount of county property tax revenue that funds a parallel service.

Non-property tax revenues include fees earmarked for specific functions and funding from general sources not linked to specific programs or services. Fees earmarked for specific functions include user fees such as sewerage charges, zoning and subdivision fees, state aid for police

protection, and waste collection charges. Non-property tax revenues from general sources include state-shared revenues, income tax, and certain intergovernmental grants. Because municipalities receive revenue from these sources to aid in funding their parallel services, all non-property tax revenue from these same sources that the county also receives to subsidize parallel services in non-municipal areas must be subtracted as parallel service non-property tax revenues.<sup>44</sup>

The sum of non-property tax revenues from earmarked and general sources equals the total amount of non-property tax revenue for parallel county services. If service rates are used in step two to grant only a partial exclusion from county property taxation, they should also be used to provide a consistent adjustment of the amount of non-property tax revenue financing the parallel service.

**Municipality M: Parallel Service Non-property Tax Revenues**

**Part One: Earmarked Non-property Tax Revenues**

	<u>Rate</u>	<u>County Revenues</u>	<u>Total</u>
General Government	0.165	\$ 0	\$ 0
Highways and Streets	1.00	1,539,762	1,539,762
Planning and Zoning	1.00	118,547	118,547
Police	1.00	<u>142,797</u>	<u>142,797</u>
Subtotal		\$1,801,106	\$ 1,801,106

**Part Two: General Source Non-property Tax Revenues**

Local Income Tax	\$312,150
Taxes—Local Other	28,370
Taxes—State-shared	13,819
Licenses and Permits	<u>130,986</u>
Subtotal	485,325
Total Parallel Service Non-property Tax Revenues:	\$ 2,286,431

**Table 4**  
**Tax Differential Calculations for Three Hypothetical Municipalities**

**STEP ONE: Review and Classify County Services that Parallel Municipal Services**

	<u>Small Municipality</u>	<u>Medium Municipality</u>	<u>Large Municipality</u>
1.	General Government	General Government	General Government
2.	Highways & Streets	Highways & Streets	Highways & Streets
3.		Planning & Zoning	Planning & Zoning
4.		Police	Police
5.			Recreation & Culture
6.			Housing & Urban Development
7.			Economic Development

**STEP TWO: Calculate Total County Expenditures for Parallel Services**

	<u>Small Municipality</u>	<u>Medium Municipality</u>	<u>Large Municipality</u>
1.	\$147,716	\$129,800	\$5,147,574
2.	\$2,839,490	\$2,046,740	\$20,105,767
3.		\$184,408	\$321,671
4.		\$330,064	\$75,942,040
5.			\$17,337,496
6.			\$7,712,970
7.			\$1,927,256
	-----	-----	-----
Total	\$2,987,206	\$2,691,012	\$128,494,774

**STEP THREE: Calculate Parallel Service Non-property Tax Revenues**

**Part One: Earmarked Non-property Tax Revenues**

	<u>Small Municipality</u>	<u>Medium Municipality</u>	<u>Large Municipality</u>
1.	\$0	\$0	\$4,933,447
2.	\$2,326,591	\$1,539,762	\$23,615,040
3.		\$118,547	\$395,267
4.		\$142,797	\$10,356,019
5.			\$2,497,447
6.			\$4,143,843
7.			\$0

**Part Two: General Source Non-property Tax Revenues**

Income	\$477,731	\$312,150	\$25,606,609
Local	\$45,422	\$28,370	\$1,670,757
Shared	\$33,205	\$13,819	\$86,297
Licenses & Permits	\$157,453	\$130,986	\$6,143,077
	-----	-----	-----
Total	\$3,040,402	\$2,286,431	\$79,447,803

**Table 4 (cont'd.)**  
**Tax Differential Calculations for Three Hypothetical Municipalities**

**STEP FOUR: Calculate County-Municipal Tax Differential**

(A) Parallel service expenditures (step 2) minus parallel service non-property tax revenues (step 3), equals parallel service expenditures funded by property taxation of municipality.

Small Municipality	Medium Municipality	Large Municipality
\$2,987,206	\$2,691,012	\$128,494,774
\$3,040,402	\$2,286,431	\$79,447,803
-----	-----	-----
(\$53,196)	\$404,581	\$49,046,970

(B) The result of (A) divided by the difference of county assessable base and municipal assessable base per \$100 assessed valuation, equals municipal tax differential.

\$2,252,224	\$4,625,783	\$185,196,679
-----	-----	-----
(\$0.024)*	\$0.087	\$0.265

**STEP FIVE: Calculate Total Differential Allowance for Municipality (Equivalent to Tax Rebate Amount)**

Tax differential amount multiplied by municipal assessable base per \$100 assessed valuation, equals total for municipality.

Small Municipality	Medium Municipality	Large Municipality
-----	-----	-----
-----	.087 * 57,078	.265 * 8,580,789
-----	-----	-----
-----	\$4,966	\$2,273,909

**STEP SIX: Calculate County Property Tax Rate for Municipal Property Owner**

County property tax rate minus municipal tax differential equals county property tax rate for municipal property owner.

Small Municipality	Medium Municipality	Large Municipality
-----	-----	-----
\$3.000	\$3.000	\$3.000
0	\$0.087	\$0.265
-----	-----	-----
\$3.000	\$2.913	\$2.735

\* While mathematical calculations may show a "negative" tax differential for the small municipality, the amount of the differential would be considered to be zero. In addition the municipality would not be eligible to receive a tax rebate (step 5) based on tax differential calculations and its county property tax rate would remain unchanged (step 6).

Source: Institute for Governmental Service, The University of Maryland, November 1990.



#### STEP FOUR: Calculate County-Municipal Tax Differential

Parallel service expenditures (step two) minus parallel service non-property tax revenues (step three), equals county parallel service expenditures funded by county taxation of real property. In other words, this is the amount of county expenditures for parallel services from which municipal residents should be exempt through tax differentials. To change this amount to a tax differential, divide the amount of county expenditures by the difference of the county assessable base minus municipal assessable base per \$100 assessed valuation. The result is the estimated county property tax differential for municipal property owners.

Municipality M: Municipal Tax Differential	
Parallel Service Expenditures	\$ 2,691,012
minus	
Parallel Service Non-property Tax Revenues	- 2,286,431
equals	
Parallel Service Expenditures funded by	
Property Tax Revenue	= 404,581
divided by the difference of	
[(County Assessable Base minus Municipal	
Assessable Base) / \$ 100]	/ 4,625,783
equals	
Municipal Tax Differential	= \$0.087

#### STEP FIVE: Calculate Total Differential Allowance for Municipality

The total differential allowance for the municipality is the sum of differentials for all property owners in the city or town. The municipal tax differential (step four) multiplied by total municipal assessable base per \$100 assessed valuation equals the total differential allowance to municipal residents for parallel county services. The total differential allowance also represents the amount of county "double taxation" of property within the municipality. Furthermore, the sum of differentials for all property owners is equivalent to a "tax rebate" amount that could be granted to the municipal government as an alternative to providing tax differentials to property owners in the municipality.

Municipality M: Total Differential Allowance	
Municipal Tax Differential	\$ 0.087
multiplied by	
Municipal Assessable Base/ \$100	57,078
equals	
Total Differential Allowance	\$ 4,966
(Tax Rebate Amount)	

#### STEP SIX: Calculate County Property Tax Rate for Municipal Property Owner

The county property tax rate for the municipal property owner is calculated by subtracting the municipal tax differential from the county property tax rate.

Municipality M: County Property Tax Rate for Municipal Property Owner	
County Property Tax Rate	\$3.000
minus	
Municipal Tax Differential	- .087
equals	
County Property Tax Rate for Municipal Property Owner	\$2.913

#### CONCLUSION

This issue of the *Maryland Government Report* has examined double taxation of property located in municipal corporations and compensation for double taxation through tax differentials. Double taxation in Maryland occurs because municipal and county governments both have the authority to levy taxes on the same real property within their jurisdictions to fund the same services. Other causes of double taxation in Maryland include population growth and a resulting demand for municipal-type services in unincorporated areas, the State's delegation of very similar powers and functions to counties and municipalities, and counties' evolution into full-service, general-purpose local governments.

An examination of case law demonstrates that states differ in how they view double taxation and in their policies to accept, deny, or alleviate double taxation. Maryland's constitution, statutes, and case law accept double taxation as a natural result of the shared powers and functions granted by this state to both counties and municipalities. However, Maryland law authorizes local governments to alleviate the effects of double taxation, and eighteen Maryland counties have exercised this authority by developing various policies to compensate for it.

Calculating the actual amount of double taxation of property within municipalities and evaluating the equity of county compensation for double taxation, however, requires an examination of the fiscal relationships between counties and municipalities. The methodology for calculating tax differentials proposed in this *Report* is just one way of measuring the amount of double taxation of property within municipalities and estimating an equitable tax differential.

Even though the methodology is based on an objective analysis of the fiscal relationship between two local governments, it presupposes and is dependent upon cooperation between a county and its municipalities. Determining which county services parallel municipal services and the service rate (total or partial) of municipal provision of these services involves subjective judgments. These judgments depend upon a mutual willingness by the governing officials of the county and municipality to compromise and negotiate in good will.

Furthermore, the Institute's methodology does not account for all possible fiscal inequities that may exist between a county and municipality. Examples of these include the loss to municipal assessable base from non-taxable county-owned property within a municipality, delivery of municipal police or fire services beyond municipal boundaries, and county assessment of user fees for municipal use of certain facilities or services such as landfills or recycling of solid waste. In short, this method is not a means of calculating county aid to municipal governments but of alleviating specific inequities occurring through county taxation of real property. Several counties and public and private organizations use a number of different methods to calculate county compensation to municipalities. These methods may be more appropriate for

certain counties and municipalities.

A county's adoption of tax differentials or tax rebates to alleviate double taxation of municipal residents will rarely be a "pot of gold at the end of the rainbow" for a municipality. As this report suggests, double taxation of property owners in municipalities does occur but may not be as widespread as commonly thought due to the high degree of state-shared revenue that funds municipal services and increased county action to provide tax differentials or rebates. Moreover, it is possible that no tax differential would be awarded to small municipalities that provide very few services. In order to justify a tax differential from the county, a municipality must provide a sufficient number of services to offset state-shared revenue that it receives.

The Institute recommends that municipalities and counties consider using its methodology to calculate the degree of double taxation that may exist in their fiscal relationships and compare it to their current level of compensation, if any, for double taxation. A municipality that provides a number of services that the county also provides may find that it can justify receiving compensation or additional compensation from the county. On the other hand, a municipality that provides only a few parallel services may discover that the compensation it currently receives from the county is adequate or generous.

## TABLES

1. Counties Providing Tax Differentials or Tax Rebates to Municipal Property Owners.
2. Sources of Local Government Revenue as a Percent of Total Revenue, Fiscal Year 1988.
3. Allocation of State-shared Tax Revenue and Grants in Counties and Municipalities.
4. Tax Differential Calculations for Three Hypothetical Municipalities.

## ENDNOTES

1. Article XI-E of the Maryland Constitution and Section 2 under Article 23A of the *Annotated Code of Maryland* provide for municipal taxation of real property. Article XI-A of the Constitution and Section 5(O) under Article 25A of the Code authorize county taxation of real property.
2. *Griffin v. Anne Arundel County*, 25 Md. App. 115, 333 A.2d 612 (1975) (quoting Rhyne, *Municipal Law* 673 (1957)).
3. Russell W. Maddox and Robert F. Fuquay, *State and Local Government*, 4th ed. (New York: D. Van Nostrand Company, 1981), p. 275.

4. Maddox and Fuquay, p. 275.
5. Jean E. Spencer, *Contemporary Local Government in Maryland*, (College Park, Md.: University of Maryland, 1965), pp. 42-43.
6. Maddox and Fuquay, pp. 349-351.
7. Spencer, p. 110.
8. Spencer, p. 33.
9. Queen Anne's County became the fifth "code" home rule county following its approval by popular referendum on November 6, 1990.
10. The State of Maryland officially recognizes Baltimore City as a county government except where such recognition would be deemed unreasonable. *Annotated Code of Maryland*, Article 1, section 14(a) and Article 24, section 1-101 (1987).
11. Letter from William S. Ratchford, II, Director of the Maryland State Department of Fiscal Services, October 9, 1990.
12. Maddox and Fuquay, p. 311.
13. *Griffin v. Anne Arundel County*, 25 Md. App. 115, 333 A.2d 612 (1975).
14. *County Commissioners of Prince George's County v. Commissioners of Laurel*, 51 Md. 457 (1879).

## ENDNOTES

15. County Commissioners of Carroll County v. Mayor and Common Council of Westminster, 123 Md. 198, 91 A. 412 (1914).
16. Commissioners of Prince George's County v. Commissioners of Laurel, 70 Md. 443 (1889).
17. Griffin v. Anne Arundel County, 25 Md. App. 115, 333 A.2d 612 (1975).
18. St. Petersburg v. Briley, Wild & Associates, Inc., 239 So.2d 817 (Fla.1970).
19. Dressel v. Dade County, 219 So.2d 716 (3d DCA Fla.1969).
20. City of Waldo v. Alachua County, 249 So.2d 419 (Fla.1971).
21. Burke v. Charlotte County, 286 So.2d 199 (Fla.1973).
22. Manatee County v. Town of Longboat Key, 352 So.2d 869 (Fla.App.1977).
23. Association of County Commissions of Georgia, "How the Court Views Questions of 'Double Taxation,'" *Georgia County Government Magazine* 28 (June 1976): 12.
24. Salt Lake City Corporation v. Salt Lake County, 500 P.2d 1291 (1976).
25. *Caroline County, Md. Code*, Article 6, sec. 58 (1930).
26. *Harford County, Md. Code*, Chapter 295, sec. 466D (1953).
27. *Report of the Maryland Commission on City-County Fiscal Relationships*, established by Joint Resolution No. 26 of the 1959 Maryland General Assembly. The commission also studied two other issues not directly related to tax differentials.
28. *Report of the Maryland Commission on City-County Fiscal Relationships*, p. 12.
29. *Report of the Maryland Commission on City-County Fiscal Relationships*, p. 12.
30. Maryland Legislative Council Committee on Taxation and Fiscal Matters, *County Property Tax Rate Differential for Municipal Residents* (Annapolis, MD), 1970.
31. The effects of state-shared revenues on tax differentials is examined in greater depth in the next section.
32. Maryland Legislative Council Committee on Taxation and Fiscal Matters, p. 330, addendum.
33. *Annotated Code of Maryland*, Article 81, sec. 32A (1957 edition, as amended), (repealed 1988). Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester Counties were originally exempt from this law.
34. *Annotated Code of Maryland*, Tax Property Article, sec. 6-305 (1990).
35. This mandate is effective on the condition that the municipality can demonstrate that it performs certain services or programs in lieu of similar county services or programs.
36. *Annotated Code of Maryland*, Tax Property Article, sec. 6-305 (1990).
37. *Annotated Code of Maryland*, Tax Property Article, sec. 6-306 (1990).
38. Department of Fiscal Services, *1989 Report on County-Municipal Tax Differentials*, Annapolis, Maryland, December 1989. According to the Director of the State Department of Fiscal Services, Garrett County's report that no municipalities provided parallel services in 1989 is not accurate because each provided street maintenance.
39. This example greatly oversimplifies the procedure for calculating a tax differential because it does not take into account the amount of county service expenditures or the number and level of parallel services. Its purpose is merely to illustrate that tax differentials can be calculated only for parallel service expenditures funded by county property taxation.
40. Maryland Legislative Council Committee on Taxation and Fiscal Matters, p. 327.
41. This general rule also applies for counties. The greater the number of services a county provides that parallel municipal services, the greater the tax differential and vice versa.
42. When determining service rates for specific parallel services such as police, fire, planning and zoning, etc., the level or rate at which the municipality provides the service should be used to determine the "service rate." The rate at which the county provides a parallel service should be used only in cases when the county's parallel service is partial, as in the previous example for general government.
43. For this report, the county's total expenditures for each parallel service includes the cost of employee benefits. If a county reports employee benefits as a separate program for all county employees instead of including them for the department or service, these costs should be added to the expenditure amount for each parallel service.
44. Only the non-property tax revenues from general sources that municipalities receive (see Table 3) should be subtracted in part two of step three as non-property tax revenues that fund parallel county services. Counties receive state-shared revenue from additional sources that municipalities do not receive and therefore these should not be included in step three.



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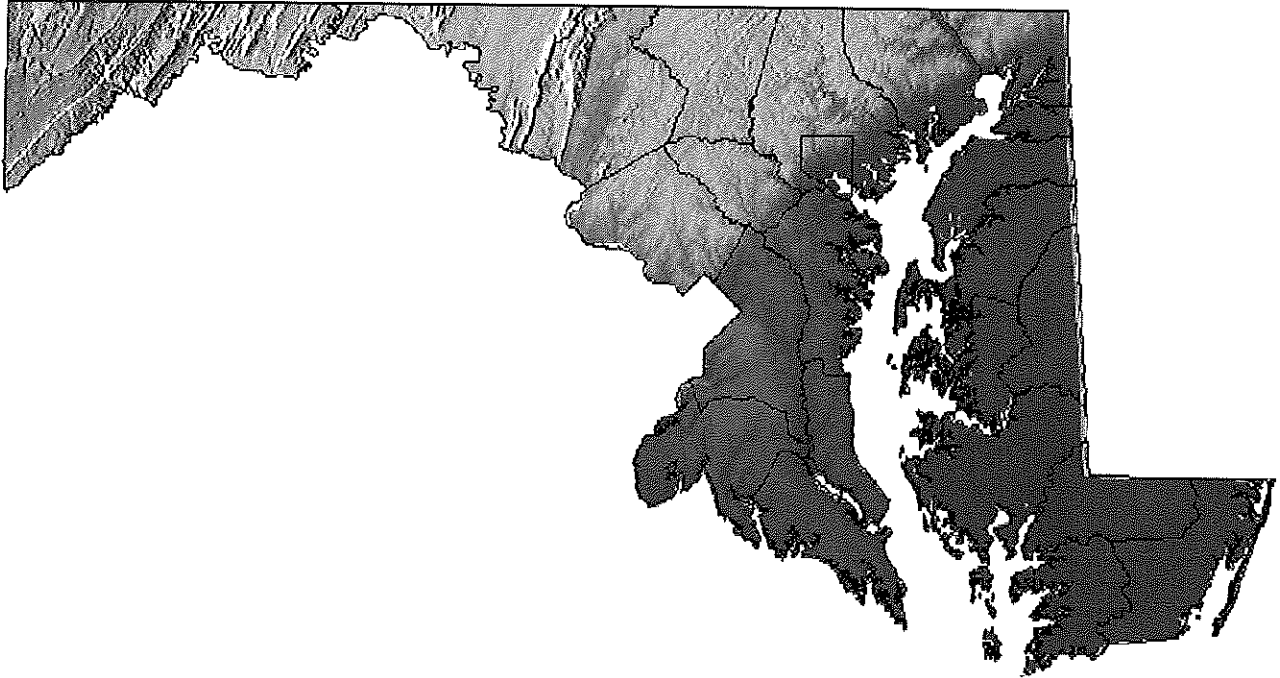
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**INSTITUTE FOR  
GOVERNMENTAL  
SERVICE AND RESEARCH**





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for Property in Ocean City, Maryland**

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Project M-117

Institute for Governmental Service  
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## Executive Summary

In the late summer of 1998, the Town of Ocean City, Maryland approached the Institute for Governmental Service (IGS) about computing a tax differential. A tax differential - or tax setoff, as some people call it - arises when a municipality provides the same or similar set of services provided by the county. A tax differential is defined as the amount by which the county reduces the county tax rate in a municipality to compensate for the provision of duplicated services. IGS agreed to the request and work began in December, 1998.

IGS has worked for several decades with tax setoffs. It developed two methods to calculate tax setoffs based, in part, on the general guidelines established in state law. As required by state law, each method looks at duplicated services and the amount of tax revenue that funds these services. Moreover, since two basic types of problems arise from duplicated services, IGS developed two methods to measure and compensate for each problem.

One type of setoff problem arises from the workings of a federated system, where county residents also may be municipal residents and pay taxes for overlapping services. When a municipal service such as police protection duplicates a county service, the municipal service displaces (or at least mitigates) the need to receive police protection from the county. To resolve this type of problem, a tax setoff formula will seek to compensate the municipal taxpayer for paying taxes toward county services that they cannot enjoy - or cannot enjoy to the same extent available to other county taxpayers.

The other type of setoff problem compensates for the invisible subsidy granted by municipal taxpayers to the county

government. In this situation, municipal services reduce the need for the county to provide services in the municipal area. The savings realized by the county is the measure of the subsidy given the county government by municipal taxpayers. IGS contends that a method that measures this type of problem must be different than a method that measures the other type of problem. In the former case, a method measures what is not received by municipal residents. For the second type of problem, the method measures what the county saves by municipal operations.

IGS Approach 1 measures the first type of problem. IGS Approach 2 measures the second type of problem. Experience with these methods shows that they can produce very different tax differentials and tax rebates in the same jurisdiction

Applying the methods to Ocean City and Worcester County, IGS found the duplicated services include: planning and zoning; police; fire and rescue; volunteer fire and rescue; animal control; emergency alarm (911); transportation services (primarily spending on highways and streets); parks and recreation; and economic development. These are all categories of spending found in the Uniform Financial Reports (UFRs) filed annually by each jurisdiction with the state government. Using primarily the amounts of spending reported in each of these categories, the county spent \$8,600,544 on these duplicated services in FY 98. Under IGS Approach 1, this amount of spending produces a tax differential for Ocean City of \$.25 or a tax rebate of \$3,612,691. Alternatively, Ocean City spent \$24,601,789 on this set of duplicated services. Under IGS Approach 2, this amount of municipal spending produces a tax differential for Ocean City of \$1.33 or a



tax rebate of \$19,221,778.

The results produced under IGS Approach 1 and IGS Approach 2 are meant to be the beginning points of discussion between the county and the municipality. Tax differentials are always products of negotiations. No one but the parties can decide what might be a proper result under all the circumstances that prevail in a jurisdiction. The data presented here provide a list of services and a set of numbers to begin discussion. If the parties agree that this list of services and numerical data are more or less supportable, then the results produced here can acquire more meaning. The larger of the two reported results, for example, can be viewed as a ceiling--the maximum amount the county might consider as a tax setoff. The smaller of the two results might be viewed as a floor--the minimum amount the county might consider. Serious negotiations can then focus of amounts that lie between these two figures. Alternatively, the parties, after negotiations, may come to decisions that are not contemplated in these pages. In this case, this report must remain merely a catalyst for discussion.

## Introduction

In the late summer of 1998, the Town of Ocean City, Maryland approached the Institute for Governmental Service (IGS) about computing a tax differential. A tax differential--or tax setoff, as some people call it--arises when a municipality provides the same or similar set of services provided by the county. A tax differential is defined as the amount by which the county reduces the county tax rate in a municipality to compensate for the provision of duplicated services. Alternatively, instead of providing a tax differential, counties sometimes calculate the total value of the tax differential spread among all the municipal property owners and provide a "tax rebate" directly to the municipality in this amount. In any event, for several decades IGS has been involved in helping jurisdictions throughout the state compute tax differentials and tax rebates. IGS agreed to help Ocean City calculate a tax setoff and work began in December 1998.

Tax setoffs in Maryland are provocative subjects, causing a great deal of debate and consternation in local government circles. The law on the subject is broadly written, largely leaving its method of computation for each county to decide individually. Developed from its years of experience, IGS uses two formulas that agree with the broad requirements of state law and satisfy the various underlying policy concerns.

Certain Maryland counties also have developed their own approaches, some similar if not identical to the IGS approaches, and some quite different. This report applies the two IGS formulas for computing a tax differential to Ocean City, Maryland, located in Worcester County. It begins below with a review of the policy concerns underlying tax setoffs in Maryland.

## Double Taxation?

Debate at the state and local level for providing tax setoffs for municipal residents is commonly focused on the issue of double taxation. The state Department of Fiscal Services 1996 Report on County-Municipal Tax Differential states, "The theory underlying property tax set-offs is that they compensate for double taxation of municipal taxpayers which occurs when both municipal and county property taxes are levied to fund similar services."<sup>1</sup> The Maryland Municipal League in written testimony before the General Assembly in 1997 declared, "A property tax setoff compensates municipal taxpayers for double taxation by providing a lower county tax rate...for property owners within a municipality or by providing a direct payment...to the municipality."<sup>2</sup>

In 1975, however, Maryland's second highest court held that double taxation did not arise when counties and municipalities provide parallel services. Different taxing authorities taxing the same property is not double taxation, the court said in *Griffin v Anne Arundel County*.<sup>3</sup> Only the same taxing authority taxing the same piece of property twice defines double taxation.<sup>4</sup> What is created when the services of two general governments overlap can be viewed in the following scenario.

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1 Department of Fiscal Services 1996 Report on County-Municipal Tax Differential, at page 1.

2 Maryland Municipal League Testimony for HB 1112.

3 25 Md. App. 115 (1975).

4 Id. at 128.

For the sake of illustration, assume an urban area in an otherwise rural county decides to incorporate. The new municipality decides to provide only police services to its residents, in addition to general government services. What will be the affect on the county budget?

Clearly the county will be burdened no longer with having to provide police services in the urban area. The county budget for police services consequently will decrease over previous year amounts. Suppose the police budget was \$10 million, and it is cut by 30 percent to \$7 million as a result of the municipal incorporation. The amount of property tax revenue supporting the police budget would drop proportionately in this scenario. All county taxpayers would end up benefitting by the change in police services.

The scenario points to several other conclusions. First, providing municipal services does not lead to double taxation. The county budget takes into account the fact that the new municipality will be providing police services. County spending will be reduced. More to the point, the situation does not lead to a pretense in which county tax revenue is collected to duplicate the municipal service; estimated county expenditures are not artificially inflated. Consequently, municipal taxpayers cannot claim they are being taxed twice for services they receive only once. They are taxed once by the municipality for municipal police services and once by the county for county police services. The two do not somehow combine or overlap to create double taxation.

From this scenario, a second conclusion is obvious: a hint of unfairness has arisen. Municipal taxpayers are being taxed for a service the benefit of which, by design and intent, will be limited to nonmunicipal areas. Is the county taxation therefore wrong and

compensable in this case? The City of Annapolis, in fact, argued in *Griffin* that it was unlawful and improper for the county to tax city residents for services that were being furnished only to areas outside of Annapolis. Municipal residents, they claimed, could not receive their fair share of benefits from their county tax dollars.

The court rejected the argument. It stated that the proceeds of any ad valorem tax levied by the county, such as the property tax, need only be employed for the benefit of the county. The law does not require a demonstration of any specific benefit to the property owners who are taxed, the court said. Thus, the court held that the applicable law made the situation neither wrong nor compensable. The court, however, went on to complain about the narrowness of the law they had before them.<sup>5</sup> It concluded the case noting that “fundamental considerations of fairness indicate the City of Annapolis--and perhaps other municipalities in Maryland--may be entitled to a more equitable tax treatment by the counties than they receive.”<sup>6</sup>

### **An Invisible Subsidy to County Government**

While the City in *Griffin* complained about services they could not receive, another type of equity problem lay unexplored: Municipal taxpayers provide an accidental and uncompensated benefit to county government. This can be seen in the hypothetical example outlined above.

In the example the county is obligated to provide police service in the urban area in the

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5 Id. at 130 -131.

6 Id. at 138.



absence of the municipal service. The presence of the municipal service reduces the scope and cost of a parallel county service by \$3 million. Instead of spreading out the \$ 3 million cost to all county taxpayers, only a subset of county residents, municipal taxpayers, shoulder the \$ 3 million cost burden. The municipal service effectively shields all other (meaning nonmunicipal) county taxpayers from paying a cost that would otherwise be theirs. In effect, municipal taxpayers provide a \$3 million subsidy to county government. This invisible subsidy, created whenever a municipal corporation duplicates a county service, becomes a compelling argument for granting a tax setoff.

This is not to say that compelling counter-arguments against granting a tax setoff are absent. In fact, a powerful counter-argument focuses on the consent of taxpayers to shoulder their tax burden. Specifically, municipal taxpayers voluntarily own property in a municipality. They tacitly consent to their tax burden. In legal parlance, consent is generally held to negate any semblance of wrongdoing that may attend an act in question. Moreover, in paying the added tax burden, municipal taxpayers receive special services that other county tax payers do not receive; i.e., municipal services that are tailored to municipal needs. Consequently, municipal taxpayers have made a rational decision to bear the *cost* of municipal residency to acquire the *benefits* of residency. Why should a tax setoff be granted in this case?

### **Maryland Law on Tax Setoffs**

The Maryland General Assembly grappled with these questions 20 years ago in framing the public policy regarding tax setoffs. It decided that in some counties setoffs are

mandatory, when certain conditions are met; in the remaining counties, the county governing body decides whether to grant a tax setoff. Arguments for and against granting tax setoffs are still live political issues in these counties.

Thus under Maryland law whether or not a tax setoff is granted depends, in part, on municipal location. Throughout Maryland, state law requires county and municipal officials to meet and confer each year over the county property tax rate applied within municipalities. The law provides further that in eight Maryland counties a lower tax rate *must* be applied when a municipality shows it duplicates county services and programs. In the remaining counties, even when duplicated services are shown to exist, state law provides local discretion in regard to providing tax setoffs. These county governments may or may not decide to provide tax setoffs.<sup>7</sup> Worcester County, in which Ocean City is located, is one of the counties for which a tax setoff is not mandatory even when duplicated services are shown to exist.

In setting a lower tax rate, counties that are obligated to provide a tax setoff under certain conditions must consider two factors: (1) the services and programs duplicated by county and municipal government; and (2) the extent to which these services and programs are funded by property tax revenue.<sup>8</sup> All other counties may consider the above two factors, according to state law, but they are not required to consider them. No other guidelines, however, are given by the state and consequently, Maryland local governments are free to construct their own methodologies. As

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7 MD. CODE ANN., TAX-PROP §§ 6-305 & 6-306 (1994).

8 Id.

the following discussion shows, the IGS Approach 1 formula meets the legal criteria noted above, as does (perhaps more arguably) the IGS Approach 2.

## **IGS Approaches**

IGS developed two methods to calculate tax setoffs based, in part, on the general guidelines established in state law. As required by state law, each method looks at duplicated services and the amount of tax revenue that funds these services. Moreover, since two basic types of problems arise from duplicated services, IGS developed two methods to measure and compensate for each problem.

As discussed in the introduction, one type of problem with setoffs arises from the workings of a federated system, where county residents may also be municipal residents and pay taxes for overlapping services. When a municipal service such as police protection duplicates a county service, the municipal service displaces (or at least mitigates) the need to receive police protection from the county. To resolve this type of problem, a tax setoff formula will seek to compensate the municipal taxpayer for paying taxes toward county services that they cannot enjoy--or cannot enjoy to the same extent available to other county taxpayers.

The other type of setoff problem compensates for the invisible subsidy granted by municipal taxpayers to the county government. In this situation, municipal services reduce the need for the county to provide services in the municipal area. The savings realized by the county is the measure of the subsidy given the county government by municipal taxpayers. IGS contends that a method that measures this type of problem must be different than a method that measures the other type of problem. In the former case, a method measures what is not received by municipal residents. For the second type of problem, the method measures what the county saves by municipal operations.

IGS Approach 1 measures the first type of problem. IGS Approach 2 measures the second type of problem. Experience with these methods shows that they can produce very different tax differentials and tax rebates in the same jurisdiction. Since the approaches measure different things, this result should be expected. Moreover, depending on the fiscal characteristics of a county and municipality, Approach 1 sometimes yield the higher amount; sometimes the lower amount.

### **IGS Approach 1 - In General**

IGS Approach 1 measures the cost of county services that municipal taxpayers do not enjoy to the same extent as other county taxpayers. Approach 1, like Approach 2, uses data contained in the Uniform Financial Reports (UFRs) filed by each jurisdiction in October with the state for the most recently concluded fiscal year. The steps in the approach can be summarized as follows.

First, IGS selects county and municipal services that duplicate one another. These typically include highways and street programs, police, fire, planning and zoning, and recreation. Next, county spending on these programs is totaled. Third, the indirect or overhead costs for providing the duplicated services are calculated. Calculating indirect costs requires determining the percentage of the budget that is spent on providing direct duplicated services and multiplying the percentage by the amounts spent on such overhead items as the county legislative programs, financial administration, legal services, personnel, central services, and other types of overhead. Together with the direct costs of providing duplicated services, the two



amounts are the total cost for providing duplicated services.

Approach 1 next goes through a series of computations to determine the amount of the duplicated services that are being funded through the property tax. Here we begin by subtracting offsetting revenue amounts from the cost of duplicated services. In the IGS method, offsetting revenue is called earmarked revenues and, by definition, these are not funds that are derived from the property tax. Instead, these are revenues that are programmatically linked to a service and that go towards paying the cost of a service. For example, highway user fees received from the state are treated as earmarked revenue in Approach 1 because they offset spending in highways and streets. IGS Approach 1 requires putting earmarked revenue into two pools: duplicated services and non-duplicated services.

Once the earmarked revenue has been subtracted from the cost of duplicated spending, the remaining amount reflects revenue received from taxing and other general sources of income. Within this pool of funds, IGS needs to know the percentage that is comprised of property tax revenue. This is an easy calculation because the UFR reports the total amount of property tax received in the most recently completed fiscal year. The percentage of revenue that is comprised of property tax is used to determine the amount of property tax revenue that funds duplicated services. Specifically, IGS multiplies the percentage by the amount of duplicated services to establish the amount of duplicated services funded by the property tax. By dividing the non-city assessable base into this amount, the tax differential is computed. The various tax rates are then computed. As the following shows, IGS Approach 1 yields a tax differential of \$.25 for Ocean City.

## Approach 1 Calculations

### A. Calculate Duplicated Service Expenditure

#### 1. Calculate Cost of Direct Services

The UFRs for Worcester County and the Town of Ocean City showed common spending in nine service categories. These categories, shown below, are the duplicated services from which the tax differential is calculated. The total direct (General Fund) county cost for duplicated services in FY 1998 was \$8,008,951. Note that water and sewer services are not included as duplicated services. While both the county and municipality provide water and sewer service, the county's service is contained in an enterprise fund and is not supported by property tax revenue. Since tax differentials are focused on services supported by tax dollars, water and sewer services are not considered a duplicated service for purposes of these calculations.

Planning and Zoning	\$1,250,943
Police	1,259,095
Fire and Rescue	114,780
Volunteer Fire & Rescue	1,321,836
Animal Control	96,568
Emergency Alarm - 911	473,195
Transportation Services (Rds & Hgwys)	3,224,017
Parks and Recreation	408,458
Economic Development	264,270
Total	\$8,413,162

This amount for direct spending needs adjustment. The county provides grants to Ocean City for providing certain duplicated services. These grants show up as expenditures in the county budget and need to be subtracted from the above total. Why? Because the above total is intended to

represent the amount the county spends on services that the municipality does not receive. Since Ocean City is receiving the grant money for certain duplicated services, the amounts the county spends on the grants need to be subtracted. As the next data show, the grants total \$404,211. When this amount is subtracted from \$8,413,162, it shows total direct county spending on duplicated services to be \$8,008,951.

Intergovernmental Revenue from County <sup>9</sup>	
Public Safety	
Police	\$ 19,198
Other-EMS	200,776
Highways and Streets	44,237
Parks and Recreation	20,000
Economic Development - Tourism	120,000
 Total	 \$ 404,211
Total Direct Spending	\$8,413,162
Less Intergov. Rev.	404,211
 Total Spending on Direct Duplicate Services	 \$8,008,951

## 2. Calculate Indirect Costs

The above amount reflects only direct spending on duplicated (or parallel) services. Indirect or overhead spending on duplicated services also must be included, e.g., legislative affairs, financial administration, personnel administration and general services. Also included must be costs found in the UFR entitled "Miscellaneous," e.g., pension contributions and health insurance payments. The procedure used to determine indirect spending amounts is shown below. Under this methodology, indirect expenses total \$591,593. When this amount is added to

direct parallel service costs (see Step 3 below) the total amount spent on parallel services equals \$8,600,544.

### (a) Indirect Spending: Determine General Program Expenditure

IGS uses the term "General Program Expenditure" to mean the total General Fund Expenditure, less the spending found under the categories of General Government and Miscellaneous in the County's UFR. Note that IGS subtracts planning and zoning expenditures from the category of General Government in the UFR because planning and zoning costs have already been captured as a duplicated service cost. Total General Program Expenditure totals \$65,779,670.

Total General Fund Expenditure	\$71,726,643
Less Overhead Expenses	
General Government (except planning and zoning)	2,968,077
Miscellaneous	2,978,896
Total General Program Expenditure	\$65,779,670

### (b) Indirect Spending: Determine Percentage of General Program Expenditure Spent for Direct (Duplicated) Services

Duplicated Service Expenditure	\$ 8,008,951
General Program Expenditure (GPE)	<u>65,779,670</u>
Percentage of GPE Spent on Direct Duplicated Services	12.18%

<sup>9</sup> From Ocean City's UFR, under general fund intergovernmental revenue.

**(c) Indirect Spending: Identify Amount of General Government Expenditure Spent on Duplicated Services**

Legislative	\$ 422,195
Financial Administration	405,816
Personnel Administration	99,405
General Services	942,833
Other General Government	7,943
 Total Supporting Expenditure - Gen.Gov.	 \$1,878,192
Multiplied by Percentage of GPE Spent on Duplicated Services	12.18 %
 Total Gen. Gov't Exp. Spent on Dup. Serv.	 \$ 228,763

**(d) Indirect Spending: Identify Amount of Miscellaneous Expenditure Spent on Duplicated Services**

Retirement - Pension Contributions	\$ 521,101
Employee Health Insurance	1,385,627
Workers' Compensation	95,057
Social Security Contributions	597,880
Other	379,231
 Total Supporting Expenditure - Misc.	 \$2,978,896
Multiplied by Percentage of GPE Spent on Duplicated Services	12.18 %
 Total Misc. Exp. Spent on Dup. Serv.	 \$ 362,830

**(e) Indirect Spending: Calculate Total Amount of Indirect Spending Spent on Duplicated Services**

Total Gen. Gov. Supporting Direct Services	\$228,763
Total Misc. Supporting Direct Services	362,830
 Total Amount of Supporting Expenditure	 \$591,593

**3. Calculate Total Spending for Duplicated Services**

Direct Spending on Duplicated Services	\$8,008,951
Indirect Spending on Duplicated Services	591,593

Total Spending on Duplicated Services \$8,600,544

**B. Identify Earmarked General Program Revenue**

Once total spending on duplicated services is known, Approach 1 turns to calculating the amount of duplicated service spending that is funded by the county property tax. Several steps are involved. First, IGS breaks county revenue into four revenue pools: (1) property tax revenue, (2) earmarked revenue used for duplicated services, (3) earmarked revenue used for non-duplicated services and (4) all remaining revenue.

**1. Calculate Total Revenue Earmarked For Duplicated Services**

Licenses and Permits	
Animals	\$ 1,636
Building and Equipment	473,798
Intergovernmental Revenue -	
From Federal Government	
Public Safety	131,256
Other- FEMA Salary Match	24,374
Conservation of Natural Resources	88,389
Economic Development & Opportunity	47,632
Intergovernmental Revenue -	
From State	
Public Safety	
Police Protection	105,232
Fire	124,101
911 Grants	282,713
Transportation	
Highway User Revenues	3,303,081
Highways and Streets	148,728
Parks, Recreation and Culture	122,498
Conservation of Natural Resources	88,733
Economic Development & Opportunity	62,264
Service Charges	
Zoning and Subdivision Fees	61,200
Public Safety Charges	
Protective Inspection Fees	52,418
Transportation Charges	
Other	57,566
Recreation Charges	26,220
Fines and Forfeitures	
Other	1,850
Total Revenue Earmarked for Duplicated Services	\$5,203,689

**2. Calculate Total Revenue Earmarked For Non-duplicated Services**

Other Local Taxes	
Hotel and Motel	\$5,209,996 <sup>10</sup>
Licenses and Permits	
Alcoholic Beverages	558,472
Amusement	116,847
Traders	73,359
Professional and Occupational	11,197
Marriage	20,430
Other	188,208
Intergovernmental Revenues -	
From Federal Government	
Federal Payments in Lieu of Taxes	5,311
Intergovernmental Revenues - From State	
Public Health	6,000
Public Safety	
Other	15,914
Transportation	
Transit	145,798
Social Services	
Other	1,363
Library	75,295
Other State Grants	17,360
Service Charges	
Sheriff Fees	76,270
Other	7,089
Public Safety Charges	
Corrections - local charges	444,072
Other	9,117
Health Charges	39,837
Library Charges	19,091
Public Service Enterprise Charges	
Liquor Dispensaries - Net Profit	318,312
Fines and Forfeitures	
Court Fines	104,398
Total Revenue Earmarked for Nonparallel Services	\$7,463,736

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10 This revenue is forwarded to municipal corporations, so it is proper to designate it as earmarked and unavailable to the county when calculating the amount of non-earmarked General Fund Revenue that is derived from the property tax. Note that the county's UFR lists the amount as \$5,370,076 before the transfer of funds.



### 3. Calculate Total Revenue Earmarked For Services

Total Earmarked Revenue for Duplicated Services	\$ 5,203,689
Total Earmarked Revenue for Non-duplicated Services	7,463,736
Total Earmarked Revenue	\$12,667,425

### C. Calculate Non-earmarked General Fund Revenue

Total General Fund Revenue	\$70,444,698
Less Total Earmarked Revenue	<u>12,667,425</u>
Non-earmarked General Fund Revenue	\$57,777,273

### D. Calculate Percentage of Non-earmarked General Fund Revenue Derived from Property Taxes

Net Property Tax Revenue (from UFR)	\$41,618,748
Non-earmarked General Fund Revenue	<u>\$57,777,273</u>
Percentage of Non-earmarked GFR Derived from Property Taxes	72 %

### E. Calculate the Amount of Duplicated Service Expenditure Funded by Property Taxes

Total Duplicated Service Expenditure	\$8,600,544
Less Earmarked Revenue for Duplicated Services	<u>5,203,689</u>
Amount of Duplicated Services Funded by Non-earmarked Revenue	\$3,396,855
Multiplied by Percentage Comprised of Property Tax Revenue	<u>72 %</u>
Amount of Parallel Service Expenditure Funded by Property Taxes	\$2,445,736

### F. Calculate Tax Differential

Duplicated Service Expenditure Funded by Property Taxes	\$2,445,736
Divided by Non-city Tax Base/100	<u>\$9,814,296<sup>11</sup></u>
Tax Differential	\$ 0.25

### G. Calculate Reduction in County Tax Rate in City

Amount of Parallel Service Expenditure Funded by Property Taxes	\$ 2,445,736
Divided by County Tax Base/100	\$24,265,059.95
Reduction in City Tax Rate	\$.10

### H. Calculate Addition to Non-city Tax Rate Resulting From Rate Reduction in City

Reduction in County Tax Rate in City	\$.10
City Tax Base/100	\$14,450,764
County Revenue Shortfall	\$ 1,445,076
Non-city Tax Base/100	\$ 9,814,296
Additional Tax Rate for Non-city Property (Divide Shortfall by Tax base)	\$.1472

### I. Calculate Tax Rebate

Tax Differential Rate	\$ 0.25
Multiplied by City Tax Base/100	\$14,450,764
Total Tax Rebate	\$ 3,612,691

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11 The tax base used in this calculation subtracts Ocean City's tax base, as given in its UFR (\$1,445,076,400), from the county's tax base, as given in the county's UFR (\$2,426,505,995).

## **J. Calculate Addition to County Tax Rate to Pay for Tax Rebate to Ocean City**

Total Tax Rebate	\$ 3,612,691
Divided by County Tax base/100	\$24,265,060
Addition to County Tax Rate	\$.1488

Steps F through J need explanation. First, remember that the amount of duplicated services supported by tax revenue (\$2,445,736) is an amount that is partially collected (generated) by property within the corporate limits of Ocean City. Furthermore, none of this expenditure is benefiting City taxpayers. Consequently, only non-city property is benefiting from this expenditure. For this reason, only non-city properties ideally should be taxed to collect this amount. If the \$2,445,736 is collected only from these (non-city) properties, it results in a tax rate on these properties of \$.25 above what is levied on city properties--the tax differential. Thus, this method concludes that there should exist a \$.25 difference in the amount city property owners pay in county property tax and the amount all other county property owners pay, if a tax differential were granted.

To eliminate city properties from having to pay to support the \$2,445,736, the county tax rate in the city must be reduced by \$.10. This is the tax rate that generates \$2,445,736 when levied county-wide (meaning on both non-city and city properties). Furthermore, when the \$.10 tax rate reduction is applied in the city, the county will realize a revenue reduction. To eliminate any shortfall, the county tax rate on non-city properties must be raised by \$.15.

An alternative to providing a tax differential is providing a tax rebate to Ocean City. The amount of the rebate would be \$3,612,691, which is computed by multiplying the tax differential by the city tax base. Notice that the tax rebate in this instance is higher than the amount of duplicated service

expenditure (\$2,445,736). Why is that? To understand the answer, assume the rebate was computed by taking the reduction in the county tax rate in the city (\$.10) and multiplying it by the city tax base (\$1,445,076,400/100). The rebate would be \$1,445,076. On the surface, this procedure seems fair because this \$1.4 million is the city's portion of the \$2,445,736 in duplicated service expenditure that the county collects but the city does not enjoy.

The problem occurs when the county raises revenue to pay for the rebate to the city. To pay for the \$1.4 million rebate, the county must raise its tax rate county-wide by \$.06. In doing this, however, city property owners would be contributing approximately 60 percent or \$867,046 in extra county tax revenue to pay for the city's tax rebate. To compensate the city for the amount city property owners contributed to their own tax rebate (\$867,046), the county would need to raise the tax rate again by \$.036. Yet, in imposing the new tax, city property owners would be contributing \$520,228 in tax revenue toward paying the city's second rebate of \$867,046. If the county were to compensate the city for this extra \$520,228, the tax rate county-wide would increase \$ .0214. But in this case city property owners would contribute \$309,815 in property tax to pay for the city's third rebate. This procedure continues until the limit is reached. If you sum all the rebate amounts produced under this method, the result is \$3,612,691. The faster way to compute this total is the method used above: multiply the tax differential amount by the city tax base.

Having established the rebate, the county must raise taxes high enough to pay for it. Using the method explained above, where successive tax rebates require successive additions to the county tax rate, then when all

of the “extra” tax rates are summed, the resulting tax rate is approximately \$.15. This rate is intended to apply county-wide, levied on both city and non-city properties. Note that it is the same rate shown in Step H above—that is, the non-city tax rate when a tax differential is applied. *Consequently, non-city property owners will realize a \$.15 tax increase regardless of whether a tax rebate or a tax differential is granted Ocean City.* In contrast, city property owners only realize an increase in their county tax rate when the city receives a tax rebate.

Besides a tax rebate or a tax differential, the county may wish to consider combining the two to give both a rebate and a tax differential. In this case, the county would raise the tax rate on (only) non-city properties by \$.15; no change in the tax rate on city property would occur. As Step H indicates, this would generate \$1.4 million. This money could then be rebated to Ocean City.

This third option is cheaper for the county to institute than the pure rebate option, while having the same cost consequences as the pure tax differential option. Unlike the pure tax differential option, where the county uses the extra tax revenue collected outside the city limits to fund a decrease in the tax rate applied to city properties, here the extra tax revenue is simply given to the city. From the city’s perspective, this option is better for their property owners than the pure rebate option, which results in a \$.15 increase in their property tax bill.

Incidentally, this third option of providing both a rebate and a tax differential has, to our knowledge, never been used in Maryland. Furthermore, the law is unclear as to whether this option is even available. The relevant state law that permits counties to grant tax setoffs defines a tax setoff as either tax

differential or a tax rebate.<sup>12</sup> A strict interpretation of the language could hold that a tax setoff could not be both a rebate and a differential. Nonetheless, the law provides some room to negotiate certain issues involving tax setoffs. The county attorney should be consulted on this matters.

## **IGS Approach 2 - In General**

In a nutshell, Approach 2 measures how much the county saves when Ocean City, instead of the county, provides the set of duplicated or parallel services identified in Approach 1. Approach 2 begins by examining municipal finances to determine the amount Ocean City spends on duplicated services. Approach 2 then shifts to measuring the amount of municipal revenue that funds duplicated services. These revenues are treated as if they would revert back to the county and be available to the county to fund duplicated services in the event Ocean City failed to provide these services to residents. When duplicated service costs and associated revenues are subtracted from one another, it results in the net expenditure for duplicated services. The net expenditure is a measure of the amount the county would have to raise in property tax revenue if Ocean City did not provide the set of duplicated services it now provides. Alternatively, the net expenditure can be viewed as the amount the county government saves by not having to provide these services in Ocean City. The net expenditure is then converted into a tax rate--the tax rate needed countywide to raise the amount of net expenditure. Approach 2 shows that tax rate as \$.79. This is amount the county tax rate would need to increase if the

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12 MD. Tax-Property Article, Section 6-305(a).

county, rather than Ocean City, provided the duplicated services within Ocean City. Approach 2 continues by showing that a tax setoff would require a decrease in the county tax rate by \$.54 within Ocean City, while property outside Ocean City would be subject to the \$.79 increase in the county tax rate. A tax rebate would require all county property (including properties located in Ocean City) to be subject to the \$.79 increase, but Ocean City would receive \$19.2 million.

Why is the differential so high compared to the result found under Approach 1? As explained above, Approach 2 measures a different type of setoff problem than is measured in IGS Approach 1. Here we measure the amount of service costs the county would assume if the county, rather than Ocean City, provided these services. Moreover, the cost of Ocean City's services are considerable, relative to the amount the county now spends on duplicated services.

## **Approach 2 Calculations**

### **A. Calculate Municipal Expenditure for Duplicated Services**

#### *1. Calculate Cost of Direct Services*

Like Approach 1, Approach 2 uses expenditure and revenue data reported in the UFR for the most recently concluded fiscal year, 1998. Unlike Approach 1, which examines county data, Approach 2 examines municipal data to establish the tax setoff. The amounts reported below are amounts spent by Ocean City in FY 1998 for the set of duplicated services reported under

Planning and Zoning	\$ 281,395
Police	8,218,824
Fire and Rescue (EMS)	1,753,211
Volunteer Fire & Rescue	861,353
Protective Inspection (Fire Marshall, Bldg. Insp)	1,089,964
Animal Control	89,077
Other Protection (communication/impoundment)	1,089,964
Highways & Streets	2,392,803
Other Transportation Services (Admin.)	213,361
Parks	557,017
Recreation	1,142,942
Other Parks, Recreation, Culture (Beach, etc)	2,897,729
Economic Development	3,100,729
Total	\$23,688,369

#### *2. Calculate Indirect Spending*

The above amount reflects only direct spending on duplicated services. Indirect spending on duplicated services for the city also must be included. The steps for determining indirect spending are outlined below and result in total indirect spending of \$913,418. When this amount is added to the amount of direct spending, the total amount of spending on direct services equals \$24,601,787 (see Step 3, below).

Approach 1. The amount spent on duplicated services totals \$23,688,369.



(a) Indirect Spending: Determine General Program Expenditure

General Program Expenditure is defined as total General Fund Expenditure, less the spending found under the categories of General Government in the Ocean City UFR. Note that IGS has taken every category of spending listed in the UFR as General Government except planning and zoning spending. Planning and zoning costs have already been captured as a duplicated service cost.

Total General Fund Expenditure	\$34,918,544
Less Overhead Expenses	
General Government (except planning and zoning)	2,865,257
Total General Program Expenditure	\$32,053,287

(b) Indirect Spending: Determine Percentage of General Program Expenditure Spent on Direct, Duplicated Service

Duplicated Service Expenditure	\$ 23,688,369
General Program Expenditure	\$ 32,053,287
Percentage of GPE Spent on Direct Duplicated Services	74 %

c) Indirect Spending: Identify General Government Expenditure Spent on Duplicated Services

Legislative	\$ 613,338
Executive	273,846
Financial Administration	953,235
Legal	88,162
Personnel Administration	259,045
General Services	661,096
Total Supporting Expenditure	\$2,848,722
Less Reimbursements Rec'd for Overhead	<u>1,614,374</u> <sup>13</sup>
Total Supporting Expenditure	1,234,348

Multiplied by Percentage of GPE Spent on Duplicated Services 74%

Total Gen. Gov. Exp. Spent on Dup. Serv. \$ 913,418

(d) Indirect Spending: Identify Total Spending for Indirect Services

Supporting General Gov. Expenditure	\$913,418
Total Spending for Indirect Services	\$913,418

3. Calculate Total Spending on Duplicated Services

Total Direct Cost	\$23, 688,369
Total Indirect Cost	913,418
Total Spending on Duplicated Services	\$24,601,787

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13 This category of spending appears as a Transfer of Other Funds on p.24 of the Town's UFR and relates to the receipt of reimbursements for these overhead expenses.

## B. Determine the Amount of Municipal Revenues to be Returned to the County

Approach 2 also requires a determination of the amount of municipal revenue that would revert to the county in the event Ocean City no longer provided the duplicated services. The following is a list of the types and amounts of revenue that would be subject to the reversion. The amount totals \$5,380,009.

Licenses & Permits	
Animal	\$ 525
Building and Equipment	388,812
Intergovernmental Revenue - From Federal Gov.	
Police	55,037
Other - Emergency Mgt.	17,581
Intergovernmental Revenues - From State	
Public Safety	
Police	351,141
Transportation	
Highway User Revenue	707,909
Economic Development and Opportunity	165,000
Other State Grants - Beach Restoration	197,486
Intergovernmental Revenue - From County	
Public Safety	
Police	19,198
Other - EMS	200,776
Highways and Streets	44,237
Parks and Recreation	20,000
Economic Development - Tourism	120,000
Service Charges	
General Government Charges	
Zoning and Subdivision Fees	110,591
Public Safety Charges	
Special Police Services	7,043
Protective Inspection Fees	35,017
Other - EMS	367,806
Transportation Charges	
Highways and Streets	18,304
Parking Facilities	1,525,156
Recreation Charges	392,924
Fines and Forfeitures	
Other	
Dog Violations	288
Police Tow Fines	106,245
Fire Code Violations	5,215
False Alarm Fines	10,600
Municipal Infractions	18,990
Parking Fines	494,128
Total Revenue Returned to the County	\$5,380,009

## C. Calculate Net County Expenditure

At this point Approach 2 has calculated the cost of providing duplicated services within Ocean City and the revenue that would be available to the county to provide duplicated services within the town. The difference between the two amounts is the net expenditure; that is, the amount the county must raise in order to cover the cost of providing the duplicated services within the town. Net expenditure equals \$19,221,778.

Expenditures for Duplicated Services	\$24,601,789
Less Revenues Returned to the County	<u>5,380,009</u>
Net Expenditures	\$19,221,778

## D. Calculate County Tax Break in Ocean City and Tax Differential

The formula now turns to calculating the amount of county property tax needed to raise the amount of net expenditure. It totals a tax rate of \$.79 levied on all county property, including city property.

Net Expenditure	\$19,221,778
Divided by County Tax Base/100	<u>24,265,060</u>
Needed Tax Rate	\$0.79

If the needed tax rate is applied only to city property, the amount collected would be \$11,416,104.

Needed Tax Rate	\$0.79
City Base/100	<u>\$14,450,764</u>
	\$11,416,104

Notice that city property owners would save \$7,805,674 (the difference between \$19,221,778 and \$11,416,104) if the county provided the services and not Ocean City.

Under Approach 2 , Ocean City property is deemed to be overpaying for duplicated services by \$7,805,674. Approach 2 requires this amount to be refunded Ocean City property owners in the form of a tax break. The amount computes to a reduction in the county property tax rate of \$.54.

Over-Spending By City	\$ 7,805,674
City Tax Base/100	<u>14,450,764</u>
Resulting Tax Rate	\$ .54

If the tax break were granted, the county would realize a revenue shortfall of \$7,805,674. To make up the difference, the county would need to levy an additional tax on property outside of Ocean City. This additional tax rate would equal \$. 79.

Revenue Shortfall	\$7,805,674
Divided by County Bas	
(less City Base)/100	\$9,814,296
Resulting Tax rate	\$. 79

Using the current tax rate as the beginning rate, Approach 2 requires the county tax rate in Ocean City to decrease by \$.54, while property owners outside of Ocean City would have their tax rate increased by \$.79. Together, the two rates provide a tax differential of \$1.33.

#### D. Calculate Tax Rebate

An alternative to providing a tax break for property within Ocean City would be to provide a tax rebate--a lump sum distribution to the city government. This amount turns out to be \$19,221,778, which is computed by multiplying the tax differential (\$1.33) by the city tax base.

Tax Differential	\$1.33
City Tax Base/100	\$14,450,764
Tax Rebate	19,221,778

Notice that all county property owners (including those in Ocean City) would need to be levied an additional \$.79 on their tax bills to make up for the loss of county revenue.

You might ask why \$19,221,778 is used as a rebate rather than the \$7,805,674 used above? The answer is the same as the one given in discussing the tax rebate in Approach 1 in Step I. In this case, if you begin with rebating \$7,805,674, the county would need to levy an additional property tax of \$.32 to pay for the rebate. But Ocean City property owners would be contributing \$4.6 million dollars toward their own rebate. To compensate for this contribution, the county would rebate another \$4.6 million, but Ocean City property owners, through the resulting property tax, would still be contributing \$2.7 million towards this rebate. If this procedure is carried to it logical extreme, the total rebate will equal \$19,221,778 and the tax rate applicable to all county property (even municipal) will equal \$.79.

## Conclusion

The results produced under IGS Approach 1 and IGS Approach 2 are meant to be the beginning points of discussion between county and municipal officials. Tax differentials are always cause for negotiations. No one but the parties can decide what might be a proper result under all the circumstances that prevail in a jurisdiction. The data presented here provide a list of services and a set of numbers to begin discussion. If the parties agree that this list of services and numerical data are more or less supportable, then the results produced here can acquire more meaning. The larger of the two reported results, for example, can be viewed as a ceiling--the maximum amount the county might consider as a tax setoff. The smaller of the two results might be viewed as a floor--the minimum amount the county might consider. Serious negotiations can then focus on amounts that lie between these two figures. Alternatively, the parties, after negotiations, may come to decisions that are not contemplated in these pages. In this case, this report must remain merely a catalyst for discussion.

The tax setoffs established here are high, but perhaps should not be entirely unexpected when three points are kept in mind. First, the town's tax base comprises 60 percent of Worcester County's tax base. Consequently, even the comparatively small amount of revenue that is at issue under Approach 1, if it had to be collected only from property outside of Ocean City (that is, from 40 percent of the tax base instead of 100 percent), results in a large (\$.25) tax differential. When this large differential is applied to the large city base, it results in a sizable rebate amount. Second, Ocean City devotes a sizable amount of its budget to the types of services that are measured in tax differential approaches

(duplicated services supported by tax dollars). Specifically, 76 percent of the town's budget is spent on duplicated services. Third, the amounts spent on these municipal services are considerable, in comparison to the amounts spent on similar services provided by the county. If the amount at issue under Approach 2 had to be collected county wide (rather than confined merely to the municipal tax base), it results in an expensive tax increase (\$.79). Converting this rate into a tax setoff and a tax rebate create similarly expensive results.

While some may be tempted to claim that IGS reports that the county owes Ocean City a tax break, nothing can be further from the truth. As noted above, the entire matter of tax setoffs is very much a matter for negotiation. It is very much a policy for county government to decide. But the decision is made complicated because tax setoff formulas tend to be complicated, and negotiators can begin at a disadvantage; neither side may well understand what they have before them. The matter may be dismissed before a good look at the issues and the numbers is made.

Knowing this problem exists, the author has taken pains to explain the policy behind the numbers, why the formulas exist the way they do and how the formulas work step by step. Unfortunately, the formulas are still difficult. It may be helpful to bear in mind that at the heart of all the complexities, the formulas are focused on three things: the services that are duplicated, how much is spent on them, and the amount of property tax revenue that supports these services. The latter number, when divided into the tax base, becomes the tax setoff. It is a simple concept, but difficult to work.





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**MARYLAND**  
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**1970 REPORT**

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## COUNTY PROPERTY TAX RATE DIFFERENTIAL FOR MUNICIPAL RESIDENTS

*Item 181 and 207*

House Bill 1473 introduced by Delegates Werner H. Fornos, Marvin H. Anderson, and Aris T. Allen of Anne Arundel County, and Delegate Francis J. Santangelo of Prince George's County would have required county governments to levy a tax on property located within municipal corporations which reflected only those services the county provided to municipal residents and not to reflect expenditures for services (such as police and fire protection, street maintenance and lighting, refuse collection, code enforcement, planning and zoning, parks and recreation, and utilities) provided solely to residents outside of municipal corporations. The bill provided for county and municipal approval of any tax rate differential and in the event of disagreement the matter would be submitted for binding arbitration. The legislation received favorable consideration by the Committee on Constitution and Administrative Law and was reported to the floor. After amendments were offered exempting various counties from the effect of the bill, it was re-referred to the Committee and subsequently sent to the Legislative Council.

Item 207 results from Senate Bill 150 introduced by Senator Edward T. Conroy of Prince George's County. This bill would have enabled the Prince George's County Commissioners to grant a partial tax exemption for property located in municipal corporations if the municipality offers services such as street lighting, police protection, street maintenance and refuse collection. The exemption could not exceed twenty per cent of the assessment. The bill did not receive favorable consideration by the county's senatorial delegation and was referred to the Legislative Council.

### *Prior Legislative Action*

State and local fiscal relationships have been subject to almost continuous study by legislative committees, special commissions, governmental agencies and private organizations. Some of the studies have dealt with specific governmental programs such as education, health or welfare while others have covered the complete spectrum of fiscal relationships. As to the subject of county-municipal fiscal relationships, four previous studies should be mentioned: the Maryland Commission on the Distribution of Tax Revenues; the 1960 Report of the Committee on Taxation and Fiscal Matters; the Maryland Commission on City-County Fiscal Relationships; and the Commission on State and County Finance and subsequent legislative study committees.

1. The Maryland Commission on the Distribution of Tax Revenues under the Chairmanship of Judge Joseph Sherbow established the State sharing of tax revenues with local governments and the distribution between counties and municipal corporations that exists today. The Commission's 1946 report recommended that the following taxes be shared:

- (a) State Income Tax—Distribute .68% of ordinary income and 1.70% of unearned income to the counties with the municipal corporation receiving one-half of receipts attributable to municipal residents (This was changed in 1967 to authorize a county income tax with the municipal corporations to receive an amount of the county income tax equivalent to .37% of the taxable income of municipal residents).



- (b) Racing Revenues—Distribute one-half of the mile track receipts, and one-quarter of the half-mile track receipts to the counties on a population basis and within the county between the county and the municipal corporations on a population basis.
- (c) Gasoline Tax—Distribute to county and municipal corporations based on road mileage (This was subsequently changed in 1968 to provide a distribution in part based on road mileage and in part on vehicle registration).
- (d) Business Licenses—Distribute proceeds, less a collection fee, to the municipal corporation or to the county where the business is located.
- (e) Recordation Tax—Distribute proceeds to county where collected.
- (f) Admissions Tax—Distribute proceeds, less collection costs, to the municipal corporations, or to the county where the tax was collected.
- (g) Corporation Franchise Tax—Continue distribution of one-half of the proceeds to the counties and municipal corporations where the corporation is located with one-half of the municipal share being sent to the county.

2. During 1960 the Committee on Taxation and Fiscal Matters made an extensive study of State-local fiscal relations. The Committee concluded even with inequities as to means of distributions that the State shared taxes "may offer an acceptable means of aiding local government". It recommended that the State cigarette tax be increased and that half of this tax be returned to the counties and Baltimore City. The Committee also noted the creation of the Commission on City-County Fiscal Relationships and deferred any recommendations that were in the scope of this Commission's study.

3. The Commission on City-County Fiscal Relationships was created pursuant to Joint Resolution 26 of the 1959 General Assembly. This resolution resulted from a study by the Prince George's County Municipal Association that called for a property tax rate differential for municipal residents. The Commission after a two year study of this subject did not recommend any specific approach to county-city fiscal relationships but did offer a series of alternatives and suggested that each county and the municipal corporations within the county establish a commission to work out the solutions on a county-by-county basis. The Commission also concluded that any adjustment in the sharing of State tax revenues could not be made without a broader review of the fiscal relationships between the State, the counties, and the municipalities.

4. The report of the Commission on State and County Finance, initially chaired by John S. Shriver and subsequently by Dr. Paul D. Cooper, was submitted in January of 1965 following a three year study of the overall tax structure in the State as well as the fiscal relationships between the State and its local governments. The Commission's recommendations called for an overhaul of the tax structure as well as major innovations in the fiscal relationship. Insofar as the county-municipal relationship was concerned the report called for the existing State shared revenues (other than motor vehicle revenues) to be discontinued and to be replaced by a new State grant equalized on an effort and ability index and suggested that the distribution between counties and towns relate to the burden of government conducted by each unit. The Commission's recommendations were subsequently reviewed by a special legislative committee under the



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County Finance, initially Paul D. Cooper, was a study of the overall relationships between the recommendations called for innovations in the relationship was considered revenues (other than to be replaced by a index and suggested rate to the burden of the county's recommendations committee under the

Chairmanship of Senator Harry R. Hughes. This Committee supported the principles of eliminating the shared taxes and utilizing an equalized grant. It further recommended that the distribution of the grant be based on the property tax burden and further that the amount of property tax utilized for county roads realized from the assessable base in a municipal corporation be deducted from the county tax burden and included in the municipal tax burden. The Committee's program was not approved by the 1966 General Assembly. The 1967 session of the General Assembly adopted a tax revision program which continued the municipal share of the county income tax at the same rate as the municipal share of the State income tax and which provided a State grant for police protection that was based on expenditures and distributed among the county and the municipal corporation in relation to expenditures.

#### *Existing County-Municipal Fiscal Relationships*

There are a number of practices currently found in Maryland regarding county-municipal fiscal relationships. These are:

1. **County Property Tax Rate Differential**—In Harford County residents of the municipal corporations in 1971 paid a property tax of \$2.57 whereas the non-municipal residents paid \$2.77. The \$.20 differential reflects the expenditures for county roads and street lighting. This differential is stipulated by local law.

Montgomery and Prince George's counties utilize special ad valorem taxes for certain services and do not impose these taxes if the service is not offered to the residents of the municipal corporation. Prince George's County use to grant a \$.02 differential on property within Takoma Park as the City provided its own library services.

Local laws were enacted for Cecil County in 1969 and Allegany County in 1970 that authorized the county to impose a differential property tax rate for municipal residents. Anne Arundel County provided a differential for two fiscal years but discontinued it in 1968.

2. **Reimbursement of Portion of County Taxes Collected in Municipal Corporations**—Caroline, Carroll and Queen Anne's counties reimburse the municipal corporations for a portion of the county taxes collected on the municipal assessed valuation. In Caroline County, this amounts to 6% of the county tax, in Carroll County it is based on one-half of the county road tax, and in Queen Anne's County, it is equivalent to \$.10 per hundred dollars of assessed valuation. These funds must be used by the municipal corporations for highway purposes and for the most part are mandated by local law. In Garrett County the municipal corporations share is a portion of the proceeds of the county tax on natural gas.

3. **Fixed County Grant**—A number of counties make fixed grants to municipal corporations. In Allegany, Dorchester and Somerset counties the grants are mandated by local law and are to be utilized for street maintenance. Garrett County makes a similar grant to one municipal corporation. Montgomery County makes a grant to Takoma Park to reflect what the county would spend to provide police services and public libraries within the corporate limits. Anne Arundel, Prince George's, Talbot, and Wicomico Counties make specific grants to the county seat for providing services to county facilities.

4. **Proceeds of County Revenue Operations**—Harford, Kent, Somerset, and Worcester Counties pay a portion of the proceeds from the profits of county liquor dispensaries to the municipal corporations.



5. County Providing Municipal Services—A non-cash type of payment is the furnishing of a service to the municipality by the county on a no-charge basis. Examples would be staff assistance for planning and zoning commissions and code enforcement programs.

6. State Mandated Grants—The State has mandated that counties make two grants to municipal corporations. The first is an amount equivalent to .37% of the taxable income of the residents of the municipality and the second is a grant equivalent to the amount of the tax on bank stock that the municipality received in the 1968 fiscal year.

The practices of sharing county property tax revenues and the fixed county grants have their roots in local law and for the most part are designed to offset any inequities arising from the maintenance of county roads. The proceeds of the county revenue operations is limited solely to county liquor dispensaries. The mandated State grants were to effect a "save-harmless" consideration in State tax revision programs in 1967 and 1968. The provision of a municipal service by the county on a no-charge basis is limited to a few program areas. The practice of the property tax rate differential needs further examination.

#### *Property Tax Rate Differential*

The premise of a county property tax differential for municipal residents is that some county services are provided solely to non-municipal residents but that the funds to pay for them are provided by all county residents including those of municipal corporations. A lower county property tax for residents of municipal corporations would prevent any "double taxation". The differential benefits the taxpayer directly and is visible to him whereas county grants to municipalities while benefiting the municipal residents do not have the same degree of visibility and benefit the municipal taxpayer through a lower municipal tax rate.

If the premise of the property tax differential is accepted as public policy, the implementation of this premise raises a number of questions as how to calculate the costs of services not provided to municipal residents and how to determine what revenues are involved.

Determining the costs of services not provided to municipal residents raises the following points:

1. Expenditures for street construction and maintenance and street lighting are easily determined, for with a few isolated instances, all streets within municipal corporations are the responsibility of the municipal government or the State Roads Commission. County expenditures for roads are almost entirely spent on facilities outside the municipal corporations.
2. Municipal expenditures for police protection, fire protection, and parks and recreation are in some instances supplemental to the county services and not in lieu of county services, or there can be a combination of supplementation and substitution. The mere fact that a county's park or recreation program is not within the corporate limits of a municipality but rather is adjacent to a municipal corporation does not mean that the municipal residents do not benefit from this county service. A county sheriff's office may provide some police protection within a municipal corporation but a more intensive program outside the corporate limits.
3. The county program of refuse disposal may be open to all residents on the same basis whereas the municipal program of collection and disposal reflects a more comprehensive program. Code enforcement may present similar situations.



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4. The true cost of a particular county operation may be more than the appropriation for the program because certain costs such as retirement are not included in the program appropriation, nor does the program appropriation reflect the cost of administrative services such as accounting, auditing, personnel, or other general support services. Allocation of these costs can be made but only in terms of ratios based on other known factors.

There are also a number of questions concerning allocation of revenues.

1. Revenues directly relating to a non-municipal expenditure should be used to offset the costs of this expenditure borne by the property tax. Examples would be fees for building permits, recreation programs, or public works agreements and State shared highway taxes or the State grant for police protection.

2. If the municipal corporation receives certain revenues from the State or the county for use of municipal residents then the county should be able to apply an equivalent share of these revenues to services that benefit solely the county residents outside municipal corporations. Such revenues would include State shared taxes such as admissions, racing, licenses, and one-half of the corporation franchise tax; a share of the county income tax equivalent to .37% of the net taxable income of non-municipal residents; a share of county funds equivalent to that portion of the tax on bank shares which was retained for county purposes; and any existing grants or differentials provided by local law or local practice.

#### *Testimony by Local Officials*

Representatives of the Maryland Association of Counties, the Maryland Municipal League and the City of Annapolis appeared before the Committee. The counties' position was that the determination as to what services or to what extent services should be provided countywide and the use of a tax rate differential, if any, can only be made at the local level by the local officials and cannot be mandated by State law. It was also indicated that the Task Force on County-City Relationships established by the two State organizations would be a useful vehicle to examine this problem and that this group should be reactivated.

The municipalities strongly supported the concept of a property tax rate differential for municipal residents as outlined in House Bill 1473. Representatives of Annapolis outlined a number of specific services which are provided by Anne Arundel County solely to residents outside the corporate limits but for which the citizens of Annapolis provide a portion of the taxes. These included police, fire, public works, recreation, planning and zoning and code enforcement and a possible differential of \$.70 was cited.

#### *Analysis by Department of Fiscal Services*

At the Committee's direction the Department of Fiscal Services prepared an analysis of the county budgets for the 1971 fiscal year and calculated the differentials that would be afforded the municipal residents. In preparing this analysis the Department made the following assumptions.

1. Municipal expenditures for a similar service being provided by the county were considered as a substitution of the county service unless the expenditures by the municipal corporation were minimal. The specific assumptions for each county are outlined in Exhibit A.



2. The portion of the county sheriff's office used for police protection is the ratio used in determining the amount of State aid for police protection. These are indicated in Exhibit A.

3. A portion of the employee benefit such as retirement and social security were allocated to the county-only program expenditures when this was possible. The allocations are indicated in Exhibit A.

4. A portion of the administrative costs such as executive and legislative direction, finances, law, personnel, purchasing and building maintenance were allocated to the county-only program expenditures on the ratio of the county-only program expenditures to the total expenditures. These allocations are indicated in Exhibit A.

5. Revenues directly attributable to county-only program expenditures were utilized to offset these expenditures.

6. When a portion of non-property tax revenues were distributed to municipal corporations, an equivalent portion was utilized to offset the cost of county-only program expenditures. For all counties these included (1) admissions tax (2) one-half of franchise tax (3) horse racing revenues (4) traders licenses (5) tax on bank stock and (6) .37 per cent of the taxable income of residents outside municipal corporations. In certain counties adjustments were made for local provisions. These adjustments are indicated in Exhibit A.

The results of the analysis were:

County	1971 Tax Rate	1971 Tax Rate Differential
Allegany .....	2.87	County 3.05 Cumberland 2.69 Frostburg 2.71 Westernport 2.71 Other Municipalities 2.80
Anne Arundel .....	3.00	County 3.08 Annapolis 2.43
Calvert .....	2.77	County 2.76 Municipalities 2.87
Caroline .....	2.45	County 2.41 Municipalities 2.52
Carroll .....	2.30	County 2.27 Municipalities 2.38
Cecil .....	2.72	County 2.71 Municipalities 2.75
Charles .....	3.05	County 3.05 Municipalities 3.05
Dorchester .....	2.69	County 2.74 Cambridge 2.59 Other Municipalities 2.74
Frederick .....	2.54	County 2.53 Municipalities 2.56
Garrett .....	2.25	County 2.44 Oakland 1.30 Other Municipalities 1.32



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	2.53
es	2.56
	2.44
	1.70

County	1971 Tax Rate
Harford .....	2.77
Municipalities .....	2.57
Kent .....	2.30
Montgomery .....	2.63
Prince George's .....	3.42
Queen Anne's .....	2.38
St. Mary's .....	2.30
Somerset .....	2.20
Talbot .....	2.25
Washington .....	2.40
Wicomico .....	2.08
Worcester .....	2.00

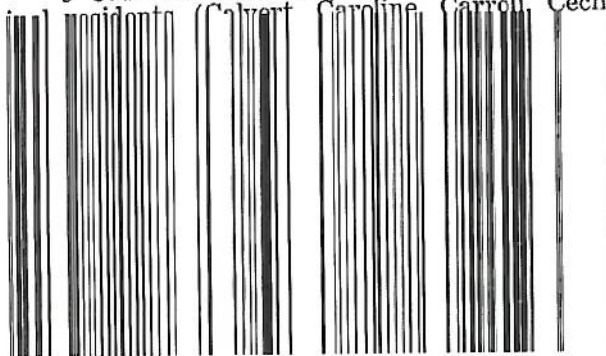
1971 Tax Rate Differential	
County	2.78
Municipalities	2.55
County	2.27
Chestertown	2.38
Other Municipalities	2.40
County	2.65
Municipalities	2.55
County	3.47
Greenbelt, Hyattsville Laurel, Mount Rainier, Takoma Park	3.05
District Heights, Brentwood, Riverdale, Seat Pleasant Bladensburg, Cheverly	3.24
Other Municipalities	3.45
County	2.37
Centreville	2.39
Other Municipalities	2.40
County	2.30
Leonardtwn	2.34
County	2.17
Municipalities	2.33
County	2.25
Easton	2.24
Other Municipalities	2.26
County	2.56
Hagerstown	2.21
Hancock & Williamsport	2.22
Other Municipalities	2.28
County	2.15
Salisbury	1.98
Delmar	2.12
Other Municipalities	2.15
County	2.08
Municipalities	1.96

In terms of Statewide application the following occurred:

7 Counties would have levied a lower property tax rate for all municipal residents (Allegany, Anne Arundel, Garrett, Harford, Montgomery, Washington and Worcester).

4 Counties would have levied a lower property tax rate for some municipal residents and a higher property tax rate for other municipal residents (Dorchester, Prince George's, Talbot and Wicomico).

9 Counties would have levied a higher property tax rate for all municipal residents (Calvert, Caroline, Carroll, Cecil, Frederick, Kent, Queen



1 County would have levied the same property tax rate for municipal residents (Charles)..

The following reductions would have been afforded the residents in 59 municipalities and 8 special taxing areas.

Municipality and County	Reduction From 1971 Rate
Oakland (Garrett) .....	\$.95
Accident, Dear Park, Friendsville, Grantsville, Kitzmiller, Loch Lynn Heights, Mountain Lake Park (Garrett) .....	.93
Annapolis (Anne Arundel) .....	.57
Greenbelt, Hyattsville, Laurel, Mount Rainier, Takoma Park (Prince George's) .....	.37
Aberdeen, Bel Air, Havre de Grace (Harford) .....	.22 <sup>1</sup>
Hagerstown (Washington) .....	.19
Hancock, Williamsport (Washington) .....	.18
Bladensburg, Brentwood, Cheverly, District Heights, Riverdale, Seat Pleasant (Prince George's) .....	.18
Municipality and County	Reduction From 1971 Rate
Cumberland (Allegany) .....	\$.18
Frostburg, Westernport (Allegany) .....	.16
Boonsboro, Clear Spring, Funkstown, Keedysville, Sharpsburg, Smithsburg (Washington) .....	.12
Salisbury (Wicomico) .....	.10
Cambridge (Dorchester) .....	.10
Barnesville, Brookeville, Chevy Chase, Section 4, Chevy Chase Village, Gaithersburg, Garrett Park, Glen Echo, Kensington, Laytonsville, Poolesville, Rockville, Som- erset, Takoma Park, Washington Grove and special taxing areas of Martin's—Addition, Chevy Chase, Section 3, Chevy Chase Section 5, Chevy Chase View Drummond, Friendship Heights, North Chevy Chase, Oakmont (Montgomery) .....	.08
Barton, Lonaconing, Luke, Midland (Allegany) .....	.07
Berlin, Ocean City, Pocomoke City, Snow Hill (Worcester)	.04
Easton (Talbot) .....	.01

The following increases would have been levied against residents in 88 municipalities:

Municipality and County	Increase Over 1971 Rate
Crisfield and Princess Anne (Somerset) .....	\$.13
Chesapeake Beach and North Beach (Calvert) .....	.10
Betterton, Galena, Millington, Rock Hall (Kent) .....	.10
Chestertown (Kent) .....	.08

<sup>1</sup> Municipalities in Harford County currently receive a \$.20 differential.





In eight counties property tax rates for the area outside of the municipalities would have decreased:

Caroline .....	\$ .04
Carroll .....	.03
Kent .....	.03
Somerset .....	.03
Calvert .....	.01
Cecil .....	.01
Frederick .....	.01
Queen Anne's .....	.01

In Charles, St. Mary's and Talbot counties there would have been no change in the tax rate on property outside the boundaries of municipal corporations.

In general those municipalities with the differential are located in counties which furnish a number of municipal-type services or a level of municipal-type services that requires substantial amounts of local property tax revenues. Those municipalities which will be subject to increased tax rates are located in counties that provide only a few services not on a county-wide basis or the cost of non-county wide services are offset by non-property tax revenues. This latter situation also is indicative of the fact that the existing distribution of State shared taxes or the State mandated sharing of revenues with a municipal corporation does not reflect the extent of government services provided by the municipal corporation.

Attachment:

Exhibit A: Assumption Utilized in Analysis of Property Tax Differential for Municipal Residents

## EXHIBIT A

### *Assumptions Utilized in Analysis of County Property Tax Differential For Municipal Residents*

#### *Allegany County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Planning and zoning (Cumberland only)
  - c. Landfill, police (Cumberland, Frostburg and Westernport only)
2. Percentage of Sheriff's office applicable to police: 60%
3. Adjustment for employee benefits: \$74,851 (25%)
4. Allocation of administrative expense: 11.8%
5. Local revenue adjustment:
  - a. \$14,464 for highway maintenance to reflect mandated grant to municipalities of \$19,174 based on county-municipal 1960 population ratio of 43%-57%

#### *Anne Arundel County*

1. Services not provided within municipal corporations:
  - a. Public works
  - b. Police



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Finally the Committee notes in several counties and municipal corporations that sufficient information on which to calculate a property tax rate differential is not readily available through existing budget documents. This lack of information limits the ability to make this type of calculation.

*In view of the above findings the Committee on Taxation and Fiscal Matters does not believe that legislation mandating a property tax rate differential should be considered at this time. It strongly urges that the governing body of each county initiate a meeting with the officials of the municipal corporations within the county to discuss county-municipal fiscal relationships with the goal of eliminating any double taxation of municipal residents while at the same time determining the most economical and efficient means for providing local services. The Committee also urges the Maryland Association of Counties and the Maryland Municipal League to reactivate the Task Force on County-City Relationships and to provide the leadership under which solutions to the question of county-municipal fiscal relationship can be developed at the local level.*

## ADDENDUM

(Insert on Page 330)

### COUNTY PROPERTY TAX RATE DIFFERENTIAL FOR MUNICIPAL RESIDENTS

(Items 181 and 207)

#### *Conclusions and Recommendations*

The Committee on Taxation and Fiscal Matters finds that there are instances in Maryland where the residents of municipal corporations are paying county taxes for services that are not provided to them by the county and for which they also must pay municipal taxes for the same service. The most easily identified service is highway maintenance. Other services that can be subject to double taxation are police protection, parks, recreation, refuse disposal, planning and zoning, and mosquito control.

The Committee further finds that the existing allocation of State-shared taxes among counties and municipal corporations and the existing requirements for the counties to make certain revenues available to municipal corporations have created instances where municipal corporations are receiving a disproportionate share of revenues for the type of services provided. Consequently, while some municipal residents are being subject to double taxation, some municipal residents are receiving double benefit from the allocation of non-property tax revenues. In such instances the residents outside of municipal corporations are paying a higher property tax rate than they should be paying.

The Committee does not believe that a state mandated property tax-rate differential for municipal residents is warranted at this time. It believes that while State action could correct some inequities it might also tend to promote the uneconomical or ineffective providing of services by small units of government and limit the flexibility of transferring or merging governmental services at the local level. The Committee also believes because of the variation in the types of governmental services provided by the local governments that determination of the countywide nature of a service can only be made at the county level and not at the state level.

The Committee further believes that the existing patterns of county-municipal fiscal relationships such as the property tax differential in Harford County; the reimbursement of a portion of county property taxes in Caroline, Carroll and Queen Anne's Counties and a portion of the natural gas tax in Garrett County; the fixed grant in Allegany, Dorchester, Garrett, Montgomery and Somerset Counties; the allocation of proceeds of liquor dispensaries in Harford, Kent, Somerset, and Worcester Counties; and the providing of municipal services by the county; represent an awareness of the problems involved in these relationships and some attempt to solve them. The Committee notes in Anne Arundel County where the question of a property tax rate differential has been the subject of considerable discussion by both public officials and private citizens that the County Council of Anne Arundel County and the Mayor and Aldermen of the City of Annapolis have enacted similar resolutions calling for a study of county-city fiscal relationships by a management and fiscal consultant. The Committee hopes that both units of government take prompt action to initiate this study.



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- c. Fire (less communications)
- d. Inspection (other than electrical)
- e. Planning and zoning
- f. Recreation
- 2. Percentage of Sheriff's office applicable to police: none
- 3. Adjustment for employee benefits: included in county budget
- 4. Allocation of administrative expense: 21%
- 5. Local revenue adjustment:
  - a. Alcoholic beverage tax—one-sixth distributed to municipal corporations by law
  - b. Alcoholic beverage licenses—license fees distributed to municipal corporation where collected
  - c. \$1,315,150 to reflect grant of \$150,000 to Annapolis based on 1960 county municipal population ratio of 89%-11%

*Calvert County*

- 1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Mosquito control
  - c. Waste collection
  - d. Police
- 2. Percentage of Sheriff's office applicable to police: 50%
- 3. Adjustment for employee benefits: none
- 4. Allocation of administrative expense: 1.5%
- 5. Local revenue adjustment:
  - a. Alcoholic beverage licenses—one-half of license fees distributed to municipal corporation where collected

*Caroline County*

- 1. Services not provided within municipal corporations:
  - a. Police
  - b. Landfill
  - c. Highway maintenance—no expenditure other than State-shared revenues
- 2. Percentage of Sheriff's office applicable to police: 50%
- 3. Adjustment for employee benefits: none
- 4. Allocation of administrative expense: 1.1%
- 5. Local revenue adjustment: none

*Carroll County*

- 1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Landfill
  - c. Police
- 2. Percentage of Sheriff's office applicable to police: 25%
- 3. Adjustment for employee benefits: none
- 4. Allocation of administrative expense: 1.9%
- 5. Local revenue adjustment:
  - a. Alcoholic beverage licenses—one-half to municipal corporation where collected
  - b. One-half of expenditure for highway maintenance deleted to reflect one-half of county road tax allocated to municipal corporations.



*Cecil County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Landfill
  - c. Police
  - d. Mosquito control
  - e. Planning and zoning
2. Percentage of Sheriff's office applicable to police: 33%
3. Adjustment for employee benefits: none
4. Allocation of administrative expense: 5.3%
5. Local revenue adjustment: none

*Charles County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Sanitary commission
  - c. Parks and recreation
  - d. Police (La Plata only)
  - e. Planning and zoning (La Plata only)
2. Percentage of Sheriff's office applicable to police: 90%
3. Adjustment for employee benefits: Included in budget
4. Allocation of administrative expense: 5%
5. Local revenue adjustment:
  - a. Alcoholic beverage licenses—license fees distributed to municipal corporation where collected

*Dorchester County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Police (Cambridge only)
  - c. Landfill (Cambridge only)
  - d. Parks and recreation (Cambridge only)
  - e. Planning and zoning (Cambridge only)
2. Percentage of Sheriff's office applicable to police: 65%
3. Adjustment for employee benefits: none
4. Allocation of administrative expense: 5.3%
5. Local revenue adjustment:
  - a. \$28,750 for highway maintenance to reflect mandated grant to municipal corporations of \$28,750 based on 1966 county-municipal population ratio of 50%-50%

*Frederick County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Landfills
  - c. Police
  - d. Parks and recreation
  - e. Planning and zoning
2. Percentage of Sheriff's office applicable to police: 40%
3. Adjustment for employee benefits: \$52,874 (40%)

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4. Allocation of administrative expense: 11%
5. Local revenue adjustment:
  - a. Alcoholic beverage license—one-half to municipal corporation where collected

*Garrett County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Police (Oakland only)
  - c. Sanitary Commission
2. Percentage of Sheriff's office applicable to police: 60%
3. Adjustment for employee benefits: None—Roads Board
4. Allocation of administrative expense: 28%
5. Local revenue adjustment:
  - a. Alcoholic beverage licenses—one-half to municipal corporation where collected
  - b. No adjustment for grant of \$500 to Town of Friendsville

*Harford County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Police
  - c. Planning and zoning
2. Percentage of Sheriff's office applicable to police: 90%
3. Adjustment for employee benefits: Included in budget
4. Allocation of administrative expense: 13.7%
5. Local revenue adjustment:
  - a. Liquor Dispensaries—one-half of proceeds to municipal corporations

*Kent County*

1. Services not provided within municipal corporations:
  - a. Planning and zoning
  - b. Landfill
  - c. Police (Chestertown only)
  - d. Mosquito control
2. Percentage of Sheriff's office applicable to police: 40%
3. Adjustment for employee benefits: none
4. Allocation of administrative expense: 2%
5. Local revenue adjustment:
  - a. Liquor dispensaries—one-half of proceeds to municipal corporations

*Montgomery County*

1. Services not provided within municipal corporations:
  - a. Public Works
2. Percentage of Sheriff's office applicable to police: none
3. Adjustment for employee benefits: \$632,834
4. Allocation of administrative expense: 12.8%
5. Local revenue adjustment:
  - a. Adjustments already made for police protection and library services in Takoma Park

to municipal cor-

grant to municipal  
pal population ratio

*Prince George's County*

1. Services not provided within municipal corporations:
  - a. Public works
  - b. Police—(Greentelt, Hyattsville, Laurel Mount Rainier and Takoma Park—100%; Bladensburg, Brentwood, Cheverly, District Heights, Riverdale, Seat Pleasant—50%)
2. Percentage of Sheriff's office applicable to police: 25%
3. Adjustment for employee benefits: \$1,408,000
4. Allocation of administrative expense: 12.4%
5. Local revenue adjustment: none

*Queen Anne's County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Landfill
  - c. Police (Centreville only)
  - d. Planning and Zoning
2. Percentage of Sheriff's office applicable to police: 50%
3. Adjustment for employee benefits: none
4. Allocation of administrative expense: 3%
5. Local revenue adjustment: none

*St. Mary's County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Mosquito control
  - c. Police
2. Percentage of Sheriff's office applicable to police: 90%
3. Adjustment for employee benefits: none
4. Allocation of administrative expense: 20.5%
5. Local revenue adjustment:
  - a. Alcoholic beverage licenses—license fee distributed to municipal corporation where collected

*Somerset County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Police
  - c. Sanitary commission
2. Percentage of Sheriff's office applicable to police: 20%
3. Adjustment for employee benefits: none
4. Allocation of administrative expense: 4.3%
5. Local revenue adjustment:
  - a. Liquor dispensaries—one-quarter of proceeds allocated to municipal corporation which is equivalent to population ratio.
  - b. Alcoholic beverage licenses—license fees distributed to municipal corporation where collected
  - c. \$4,800 for mandated highway grant to municipal corporations based on 1960 county-municipal population ratio of 75%—25%



*Talbot County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Landfill
  - c. Planning and Zoning
  - d. Police (Easton only)
2. Percentage of Sheriff's office applicable to police: 30%
3. Adjustment for employee benefits: none
4. Allocation of administrative expense: 13%
5. Local revenue adjustment: none

*Washington County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Sanitary commission
  - c. Police (Hagerstown, Hancock & Williamsport only)
  - d. Planning and Zoning (Hagerstown only)
  - e. Parks and recreation (Hagerstown, Hancock and Williamsport only)
2. Percentage of Sheriff's office applicable to police: 65%
3. Adjustment for employee benefits: none
4. Allocation for administrative expense: 6.8%
5. Local revenue adjustment:
  - a. Alcoholic beverage licenses—license fees distributed to municipal corporation where collected

*Wicomico County*

1. Services not provided within municipal corporations:
  - a. Public works
  - b. Landfill
  - c. Mosquito control
  - d. Recreation (Salisbury only)
  - e. Police (Delmar & Salisbury only)
  - f. Planning & Zoning (Salisbury only)
2. Percentage of Sheriff's office applicable to police: 80%
3. Adjustment for employee benefits: none
4. Allocation of administrative expense: 19%
5. Local revenue adjustment: none

*Worcester County*

1. Services not provided within municipal corporations:
  - a. Highway maintenance
  - b. Landfill
  - c. Mosquito control
  - d. Recreation
  - e. Police
  - f. Planning and zoning
  - g. Sanitary Commission
2. Percentage of Sheriff's office applicable to police: 50%
3. Adjustment for employee benefits: none
4. Allocation of administrative expense: 5%
5. Local revenue adjustment:
  - a. Liquor dispensaries—one-half of proceeds to municipal corporations

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Chairmanship of Senator Harry R. Hughes. This Committee supported the principles of eliminating the shared taxes and utilizing an equalized grant. It further recommended that the distribution of the grant be based on the property tax burden and further that the amount of property tax utilized for county roads realized from the assessable base in a municipal corporation be deducted from the county tax burden and included in the municipal tax burden. The Committee's program was not approved by the 1966 General Assembly. The 1967 session of the General Assembly adopted a tax revision program which continued the municipal share of the county income tax at the same rate as the municipal share of the State income tax and which provided a State grant for police protection that was based on expenditures and distributed among the county and the municipal corporation in relation to expenditures.

#### *Existing County-Municipal Fiscal Relationships*

There are a number of practices currently found in Maryland regarding county-municipal fiscal relationships. These are:

1. **County Property Tax Rate Differential**—In Harford County residents of the municipal corporations in 1971 paid a property tax of \$2.57 whereas the non-municipal residents paid \$2.77. The \$.20 differential reflects the expenditures for county roads and street lighting. This differential is stipulated by local law.

Montgomery and Prince George's counties utilize special ad valorem taxes for certain services and do not impose these taxes if the service is not offered to the residents of the municipal corporation. Prince George's County use to grant a \$.02 differential on property within Takoma Park as the City provided its own library services.

Local laws were enacted for Cecil County in 1969 and Allegany County in 1970 that authorized the county to impose a differential property tax rate for municipal residents. Anne Arundel County provided a differential for two fiscal years but discontinued it in 1968.

2. **Reimbursement of Portion of County Taxes Collected in Municipal Corporations**—Caroline, Carroll and Queen Anne's counties reimburse the municipal corporations for a portion of the county taxes collected on the municipal assessed valuation. In Caroline County, this amounts to 6% of the county tax, in Carroll County it is based on one-half of the county road tax, and in Queen Anne's County, it is equivalent to \$.10 per hundred dollars of assessed valuation. These funds must be used by the municipal corporations for highway purposes and for the most part are mandated by local law. In Garrett County the municipal corporations share is a portion of the proceeds of the county tax on natural gas.

3. **Fixed County Grant**—A number of counties make fixed grants to municipal corporations. In Allegany, Dorchester and Somerset counties the grants are mandated by local law and are to be utilized for street maintenance. Garrett County makes a similar grant to one municipal corporation. Montgomery County makes a grant to Takoma Park to reflect what the county would spend to provide police services and public libraries within the corporate limits. Anne Arundel, Prince George's, Talbot, and Wicomico Counties make specific grants to the county seat for providing services to county facilities.

4. **Proceeds of County Revenue Operations**—Harford, Kent, Somerset, and Worcester Counties pay a portion of the proceeds from the profits of county liquor dispensaries to the municipal corporations.

ELIMINATING DOUBLE TAXATION:

THE  
TAX SET-OFF  
HANDBOOK

MARYLAND MUNICIPAL LEAGUE

FEBRUARY 1984

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## INTRODUCTION

A tax set-off system is a tax policy which recognizes the value of municipal services to the residents of Maryland's 154 cities and towns through a lower county tax rate or a tax rebate to the municipality.

In Maryland, unlike some other states, an incorporated municipality is not a separate political entity, but a part of the county in which it is located. Thus, the municipal resident pays both the city property tax and the county property tax.

For their city tax dollar, citizens may receive police and fire protection, road maintenance and repair, planning and zoning services, parks and recreation facilities, solid waste disposal and a variety of other services which vary from town to town because of size, location, law, or tradition.

For their county property tax dollar, municipal residents receive a variety of county wide services received by citizens inside and outside the city limits. These include education, public health, election administration and other services provided at the county level for all residents.

But not all county services are available to citizens of municipalities. When a city has its own police department the county sheriff does not answer calls within a municipality. County road crews stop at the city limits. Many municipalities provide their own parks and recreation facilities, their own planning and zoning services, solid waste disposal, snow removal, building codes, economic development programs, street lighting, and more.

Unless the value of municipal services is recognized in the tax rate, city and town residents pay twice for services they receive only once. This is the inequity known commonly as "double taxation."

Many counties have acted to reduce double taxation by lowering the county tax rate for municipal residents or by returning tax dollars to the municipal government. The first system, lowering the county tax rate within municipalities, is called a tax differential. For instance, in Aberdeen last year, the county property tax rate was \$2.12 per \$100 assessed value. But for Harford County residents living outside the incorporated municipalities, the tax rate was \$2.55. The tax differential, then is 43¢. A second method used by counties to reduce double taxation is the tax rebate. While municipal taxpayers still pay the same property tax rate, the county returns some of these funds to the municipal government. As an example, Frederick County returned more than \$300,000 to ten municipalities last year.

Unfortunately, only about half of Maryland's counties have established a tax set-off system to lessen the inequity of double taxation. In those counties, citizens of municipalities still pay taxes for services which the county does not provide within their cities or towns.

This report identifies some of the important aspects of double taxation, reviews the tax set-off systems which currently exist in Maryland, answers some common questions regarding double taxation, and suggests methods by which an effective tax set-off campaign could be mounted by municipalities. Following the report is an appendix containing the State tax set-off laws and laws relating to some of the local tax set-off systems.

MML's Tax Set-Off Handbook is designed as a simple guide for municipal officials, not an academic study of the issue of double taxation. It is dedicated to assisting all local officials in their attempts to achieve an equitable tax rate for municipal residents.



## IMPORTANT ASPECTS OF TAX SET-OFF SYSTEMS

Every tax set-off system already in use in Maryland is unique and reflects the varying traditions and political realities of the regions involved. There are, however, several aspects of a tax set-off which apply to every municipality, and must be considered before a system to end double taxation can be established or altered.

1. Legal Basis. Beginning July 1, 1984, seven counties are required by state law to "levy a tax on the assessable property located within one or more of the municipal corporations of the county, which is less than the general county property tax rate, if it can be demonstrated that the municipal corporation performs governmental services or programs in lieu of similar county governmental services or programs" (Article 81, Section 32A). The counties affected are Allegany, Anne Arundel, Baltimore, Garrett, Howard, Montgomery, and Prince George's.

For the state's remaining sixteen counties, double taxation elimination is a local option. State law provides only that these counties "may" establish a tax differential or rebate.

Municipalities in the sixteen counties not covered by the provisions of Article 81, Section 32A, have two options: (1) Continue to work with local delegations for legislation including their county in the state law, or (2) work with county officials to write a tax set-off provision into local laws or the county code.

Without the force of state or county law, a tax set-off system is in constant jeopardy of being reduced or eliminated by a fiscal or political squeeze. A tax differential which was established on good will can be eliminated if that good will is lost or if new officials are elected to office. Several of the current tax differentials have been threatened, suspended, reduced, or eliminated when a county faced financial difficulties. In one case the threatened elimination of a tax differential system was the impetus for a municipal campaign which succeeded in having a county council pass an ordinance codifying a tax differential system.

A copy of the state law and examples of county code provisions can be found in the Appendix of this report.

2. Establishing a System. Municipal officials need to begin meeting nearly a year in advance to establish a new tax set-off system. During the summer and fall, municipal officials should begin discussions to:

- a) collect data on the cost of municipal services;
- b) identify services which the municipalities provide in lieu of county services;
- c) select a method to determine the value of these services and the amount of a set-off due to municipal residents; and
- d) decide whether a tax differential or tax rebate best meets the needs of your municipality and its residents.

Once these issues have been discussed among municipal leaders, meetings with county officials should be scheduled in an attempt to reach an agreement on these same points. State law requires all counties to "annually meet and confer with municipal officials" to discuss double taxation

By early spring the county budget process will begin, and, if all has gone well, a tax set-off system will be included in the budget.

3. Formula. Selecting a formula to measure the extent of double taxation and determine the appropriate differential or rebate is the most important and most controversial part of the process. Because of the complexity of the subject and the fact that money is involved, two major problems arise:

- a) There are several formulae in use, but none are perfect, easily understood, or universally accepted; and
- b) even after a formula is adopted, there is room for wide disagreement as to which services, programs, revenues and expenditures to include.

Even so, complexity alone should not discourage municipalities and counties from reaching a mutually agreeable solution. An equitable tax rate can be developed, and has been developed in several counties.

The Institute for Governmental Service (IGS) at the University of Maryland has worked out two formulae which are perhaps the best now available, and has computed tax differentials for a number of municipalities.

One formula favors municipalities, the second favors counties. While neither version can be relied on to set the exact differential or rebate, they can provide a good basis for negotiations. The League staff can provide more information about IGS and its work in this area if you are interested.

Regardless of the formula or method selected to determine the amount of double taxation, it should recognize all services performed by the municipality which are duplicated by the county. Any formula which only takes into account one area of county duplication, whether street lighting, police protection, or road repair, may only be touching the tip of the iceberg. A comprehensive tax set-off system attempts to examine all areas of county duplication and lighten the burden of county taxation on municipal residents accordingly.

It is also important that the formula be flexible enough to recognize changing circumstances. A tax differential or municipal rebate program which grants municipal residents a fixed level of benefits may become less meaningful if the county greatly increases services to unincorporated areas, or if a municipality elects to expand its services. A tax differential of 35¢ which appeared appropriate when the



county tax rate was \$2.00 may prove inadequate if the county tax is raised to \$3.00 over a period of time. By the same token, a fixed grant to municipalities of a specified number of dollars will eventually be eroded by inflation. Tax differentials need to be tied to a base which reflects the level of county services provided to municipal residents year by year or else be subject to review and revision at specified time periods.

4. Rebates and Differentials. State law permits counties to address the problem of double taxation by granting a direct tax differential to municipal residents or making a lump-sum rebate payment to the municipal government.

While the ultimate choice between the two systems is left to county officials, municipalities should consider which system would work best for their community before negotiations with the county begin. Since it is unlikely that a county would grant rebates to some municipalities and differentials to others, municipalities should be in general agreement before meeting with county officials.

Some municipal officials prefer the tax differential to the rebate. The differential assures that citizens will receive the full benefit of the lower rate and puts the tax relief up front on the county tax bill, giving each municipal taxpayer a personal stake in the continuance of the tax differential. If the program is threatened, the county will hear an outcry not just from the municipal officials, but from municipal taxpayers and voters who see their county tax bills going up.

A tax rebate, on the other hand, is favored by some municipal officials because it provides more flexibility. Since the municipality receives the benefits of the tax set-off rather than the individual taxpayer, part or all of the rebate may be retained in the budget to improve services and keep the municipal tax rate down. Some municipalities use the entire rebate to lower taxes; one municipality reduced the tax rate by 11¢ and lets its residents know in large red letters on the town's tax bill. Used in this manner, the rebate can also build public support for the program.

5. Monitoring the System. The appointment of a joint study group or task force comprised of municipal and county officials can be useful in monitoring the effectiveness of the tax differential system. The group is also in a position to respond to difficulties as they arise, such as tax billing errors, or miscalculation of rebate checks. Finally, since much of the tax differential background material tends to get rather complicated and technical, a study group allows some representatives from each side to get an in-depth understanding of the program.



## TAX SET-OFF SYSTEMS IN MARYLAND

Although all 154 incorporated municipalities levy a property tax and provide services to their citizens, only eleven counties currently grant a tax differential or rebate. The remaining ten counties with municipalities provide no tax set-off system to relieve residents of double-taxation. Under the 1983 legislation, two of these ten, Allegany and Garrett Counties, will be required to establish an equitable tax structure for municipal residents in FY 1985.

### TAX DIFFERENTIAL

In the following four counties, municipal residents pay a lower rate on their county property taxes.

#### Anne Arundel

Residents of Annapolis received a form of tax differential as early as the 1930's, when they were exempted from payment of any county taxes in support of county roads or public safety. The tax differential remained in effect up until recent years when it was abolished for fiscal years 1970 and 1971. The city and county jointly cooperated in a consultant's study in 1971 regarding tax differential and intergovernmental relationships and reinstated a 30¢ tax differential in the budget for fiscal year 1972. A differential has remained in place since then.

In 1974 an Annapolis resident took the county to court for not granting an adequate tax differential. The Court of Special Appeals in Griffin vs. Anne Arundel County stated that tax differential was a legislative issue and not a matter subject to judicial remedy. The General Assembly responded by enacting a law in 1977 prohibiting Anne Arundel and Howard Counties from taxing municipal residents for services which municipalities provide. Following passage of the law, Annapolis hired an accounting firm to measure the net costs to Anne Arundel County of services delivered outside the City of Annapolis. The auditor's report disclosed that Annapolis residents should pay a county tax rate of at least one dollar less than non-municipal residents. Still Annapolis residents paid only 41¢ less on their county property tax rate than non-municipal residents in fiscal year 1979; but, by 1982 the differential had increased to 80¢.

In two other cases, Theodore Woolsey Johnson, Jr., et al vs. Controller, Anne Arundel County, Maryland, and Annapolis Yacht Yard, Inc., vs. Controller, Anne Arundel County, Maryland, filed in the Maryland Tax Court in March, 1982, petitioners sought refunds of the difference between what was paid in county real property taxes and what would have been paid if the differential rate was properly calculated. Among the issues to be decided by the Tax Court are: (1) whether owners of property located within the City of Annapolis may be taxed for County services which the County provides only outside of Annapolis, and (2) whether constitutional and statutory provisions require that the

differential rate be determined by an "assessed valuation" method. Using this method, the cost of County-wide services is apportioned across the County-wide assessable base while the cost of services provided by the County in areas lying outside of the City of Annapolis is spread only across that portion of the assessable base of the County which lies outside of the City. A decision in this case is expected in 1984.

#### Charles

Early in 1977 the municipal officials of the two Charles County municipalities presented their county commissioners with a proposal documenting the amount of tax differential to which they felt they were entitled. The result was that the two towns shared a rebate of \$14,657 in fiscal year 1978. The county shifted to a direct tax differential for fiscal year 1979. Residents of LaPlata paid 13¢ less and Indian Head residents paid 3¢ less on their county property tax rate than non-municipal residents in fiscal year 1982. The differential amounted to taxpayer savings of \$37,000.

#### Harford

Harford County has granted its three municipalities a direct tax differential since the early 1950's. The tax differential, enacted as part of the county code, establishes a tax levy for services provided county-wide and an additional levy on unincorporated areas for services provided only to non-municipal residents. Municipal residents are specifically relieved from funding any part of the following services which are provided only in unincorporated areas: 1) the maintenance and construction of county roads and bridges, 2) all expenses of the County Highways Department and Roads Engineer, 3) county highway lighting, and 4) costs relating to the construction, acquisition, and maintenance of dumps for non-municipal residents. Municipal residents paid 43¢ less on their county property tax rate than non-municipal residents in fiscal year 1982.

#### Prince George's

In November, 1983, the Prince George's County Council adopted a \$6.5 million tax differential plan for their 28 municipal corporations. Prior to the new law, the county had provided rebates totaling \$1.6 million annually. That figure was based on 9¢ per \$100 total assessed value of all municipalities in the county.

In 1982, the Prince George's County Municipal Association (PGMA), established a subcommittee to develop a double taxation elimination strategy. The members, representing a cross section of the county's municipalities, invited speakers from Annapolis, an accounting firm, and the Institute for Governmental Service. After contracting with IGS to perform an analysis of several towns, the PGMA subcommittee began work to develop their own formula.



In August, 1983, following the passage of the new State law, the subcommittee met with county officials. After several meetings to resolve conflicts over the formula, legislation was introduced in the County Council that October and was approved by a 6-3 vote. The new formula, which will become effective July 1, 1984, will allocate the differentials based on the level and value to the county of municipal services. One result of the change from rebate to differential will be an increase in municipal tax rates. While the combined city-county property tax bill will be lower for municipal residents, the municipal rates must be raised to off-set the loss of the rebate.

Success in Prince George's County resulted not only from the hard work of the subcommittee, but on the cooperation of the county and all municipalities, an unrelenting public education campaign, and support of the press as well.

#### TAX REBATE

In the following seven counties, a portion of property tax revenue raised within municipalities is returned to the cities and towns by the county.

##### Calvert

Shortly after the passage of the law in 1975 authorizing tax differentials, the mayors of North Beach and Chesapeake Beach met with the County Commissioners and requested the establishment of a tax differential. The Commissioners agreed, for fiscal year 1976, to reduce the County tax rate in each town by \$1.00, with the understanding that the towns would each raise their municipal tax rates by \$1.00. The County asked that the additional revenues be applied to specific projects of the town's choice. Since fiscal year 1977 the county has provided the municipalities with rebates rather than a direct tax differential. The rebates are based on \$1.00 per \$100.00 of assessed property value within each town and are unrestricted as to use. The two municipalities shared a total rebate of \$173,358 in fiscal year 1982.

##### Caroline

The local laws of Caroline County have required the County Commissioners to make grants to their municipalities for street maintenance since the 1930's. The county local laws currently require the county to rebate 6% of the county property taxes collected within each municipality to be used for street maintenance (See Appendix A-4). The total rebate to the nine municipalities for fiscal year 1982 was \$52,221.

##### Carroll

In 1976, municipalities contracted jointly with a consulting firm to conduct a study of Carroll County taxation and services. The study examined many areas of local taxation and service delivery to identify areas where municipal residents were being over-taxed by the county and where the county was receiving state shared revenues which were not



equitably shared with municipalities.

As a result of the consultant's study and several meetings between the county and municipal officials, a joint agreement was developed. Among other things it contained a pledge of cooperation:

1. To jointly review plans of public utility requirements, commonality of master plans, subdivision plat reviews, and annexation requests.
2. To examine such disproportionate distributions of revenues as may currently exist and take immediate steps to correct to the fullest extent possible any inequities which deprive the residents of any of the governmental units a fair share of such revenues to their benefit.
3. To follow existing principles and act on a mutually agreed basis to make provision for such intergovernmental cooperation as will simplify the process of government, prevent conflicts in action, expedite the provision of services and lower the cost of government to the citizens.
4. To address each of the concerns to the limit of existing authority, and, if necessary, to jointly solicit further powers by act of the state legislature.

The Carroll County Commissioners provided a total rebate to the municipalities of \$150,000 in fiscal year 1978 and appropriated \$250,000 to be distributed in fiscal year 1979. By fiscal year 1982, the rebate had grown to \$400,000 annually. In addition, the county provides about \$100,000 in road grants and \$50,000 in in-kind aid. A complex formula involving services was rejected by the county and municipalities; the annual rebate is distributed by population.

#### Dorchester

In fiscal year 1982, nine Dorchester county municipalities shared a rebate of \$46,050. The funds are provided for street maintenance needs.

#### Frederick

County and municipal leaders agreed, in 1981, on a rebate formula for the cities and towns in Frederick County. The formula is based on factors of relative road mileage, population, area, and county expenditures within the municipalities. Services such as road maintenance, police protection, waste collection, and parks and recreation are all considered.

The first payment, for fiscal year 1982, totaled \$314,236. For fiscal year 1983, the municipalities received \$318,250. Frederick at \$199,739 receives the largest payment; Myersville's \$2,111.00 is the smallest. One town, Rosemont, does not receive a rebate.

## Montgomery

In fiscal year 1974, Montgomery County initiated a program of rebates to municipalities in recognition of public services which otherwise would have been provided by the County. Between fiscal years 1974 and 1977 the County reimbursed the municipalities a total of \$1,570,000, but the distribution formula was complicated, controversial, and occasionally not fully funded by the County.

In recognition of the deficiencies of the program, a joint Task Force on County-Municipal Financial Relationships was established in 1977. The Task Force studied the problems and held several meetings over nearly a year. In September of 1978 the Task Force issued its report which suggested methods of solving several local issues and rewriting the formula for the municipal rebate program. The revised formula provided each municipality with a grant per street mile based on the cost to the County for street maintenance in unincorporated areas. The formula, which was adopted by a Council resolution in October, 1978, authorized a subsequent appropriation of \$1,008,000 to be distributed among the municipalities in fiscal year 1979, based on relative street mileage (See Appendix A-6). The County Council intended that the funds provided by this program be used to provide relief in municipal tax rates.

An expanded program was adopted in April, 1982, for fiscal year 1983, which includes a county reimbursement program for code expenditures such as zoning, housing, animal control, and construction code enforcement. The county will also reimburse two cities for consumer affairs and human relations services.

Total payments to the county's sixteen municipalities were \$1.4 million in fiscal year 1982.

Montgomery County has also established a series of special area taxes, closely related to the concept of direct tax differential, under which citizens are taxed only for services actually provided to them by a particular level of government. Montgomery County has divided itself into a number of designated areas, each of which is subject to a separate special area tax. Special area taxes are used to fund services such as Metro rail and bus systems, recreation, fire service, storm drainage, and land acquisition.

## Queen Anne's

Although exempted from the State's enabling legislation for the granting of tax differentials prior to 1984, the County Code authorizes annual grants to municipalities for the purpose of street and bridge maintenance.

The rebates equal 10¢ per \$100 assessed value within each municipality. In fiscal year 1982, Queen Anne's County's seven municipalities shared \$21,935.



## AN EFFECTIVE TAX DIFFERENTIAL CAMPAIGN

As with most undertakings, a well thought-out plan will be more likely to succeed than a haphazard effort. Municipal officials have met with varying degrees of success around the State in obtaining tax set-off systems. Their efforts over the years have pointed out some important considerations in mounting an effective campaign to eliminate double taxation.

### 1. Get Documentation

In order to effectively argue that municipal taxpayers are funding county services from which they receive no benefit, you have to get the facts. Normally this starts with obtaining a copy of the current county budget and the budgets of all municipalities in the county. The assessable base figures for the county and each municipality are particularly important. One approach which has been used effectively is to identify particular county services from which municipal residents receive no benefit and then determine what amount of property taxes were levied by the county on municipal residents to fund those services.

Avoid developing a formula which is too elaborate. The county officials won't understand it, municipal officials won't understand it, and it will boil down to an argument between county and municipal accountants. The methodology is not that important anyway, because it is always, in the end, a political decision. But don't overlook the possibility of bringing in an independent third party to provide objective background documentation; in one county, municipal officials received excellent results by hiring a consultant to document the need for their case for a tax set off. A small investment split among the municipal governments paid off with big dividends.

### 2. Get the Public Involved

Both the press and the public can be helpful in an effective tax campaign to end double taxation. Let your municipal residents know of the extent to which they are subsidizing county services. Release the results of tax set off studies to the press. Make it an issue and keep it an issue until the double taxation problem has been resolved.

### 3. Present a United Front

All municipal officials within a county area have to work together if they expect to achieve a fair tax set off system. A letter to the county signed by all of the municipal officials or a press conference of all of the mayors can be effective in presenting a unified effort to establishing a tax differential or rebate. Nothing will undercut a campaign faster than a disunified effort. Keep in mind that this is an issue of importance to all municipalities regardless of size. While representatives from a large municipality in the county may be effective spokesmen for the group, they can't be expected to carry the ball alone.



. A P P E N D I X

#### 4. Present a Pressing Need

Sometimes highlighting a local problem can be an effective way to pressing the need for a tax set off. Consider pointing out the different income or economic characteristics of the municipal residents which may exist, including the percentage of elderly, fixed income, or low income residents. Look at individual service areas, such as the municipal street improvement needs which are unmet due to the municipal subsidy of county roads.

#### 5. Get the Votes

The bottom line in determining whether or not you get a tax differential or rebate will depend on obtaining a majority of the votes of the local elected officials (or in some cases the local delegation to the General Assembly.) Don't expect to win solely on documentation. One city has engaged in a consultant's study and an accountant's report in pursuing a tax differential increase over the past ten years. Yet, they still find themselves frustrated because they don't have the votes at the county level.

The contacts with the press and the citizen involvement will be important in persuading the county governing body to enact a tax set off. Make double taxation a campaign issue at election time to see where the candidates stand. Make sure the county officials realize that this is an issue important to the citizens as well as the municipal officials.

#### 6. Get it in Law

Your campaign is not finished until your tax set off system is enacted as a local law or ordinance. Unless this is accomplished, the system you worked so hard to develop can be reduced (or even eliminated in those counties not included in the State mandate) any year at budget time.

APPENDIX A - STATE LAW

(Amendment effective July 1, 1984.)

**Art. 81, § 32A. Levy of county tax in municipalities performing services in lieu of county services; payments by counties to municipalities providing services in lieu of county services.**

(a) (1) The board of county commissioners or the county council shall annually meet and discuss with municipal officials, and after this consultation with municipal officials, shall levy a tax on the assessable property located within one or more of the municipal corporations of the county, which is less than the general county property tax rate, if it can be demonstrated that the municipal corporation performs governmental services or programs in lieu of similar county governmental services or programs. In establishing the property tax rate on the assessable property within one or more of the municipal corporations, the county shall take into account the governmental services and programs which the municipal corporations perform in lieu of similar county governmental services and programs and the extent that the similar services and programs are funded through property tax revenues. The county property tax rate set for one municipal corporation does not have to be uniform among all municipal corporations within the county, and the rate set for one tax year need not be the same in any succeeding year.

(2) In lieu of a lesser rate of county property tax as provided in paragraph (1) of this subsection, the county may make a payment to the municipal corporations to assist the municipal corporations in funding governmental services or programs which the municipal corporations perform in lieu of similar county services or programs.

(3) The provisions of this subsection apply only in:

- (i) Allegany County;
- (ii) Anne Arundel County;
- (iii) Baltimore County;
- (iv) Garrett County;
- (v) Howard County;
- (vi) Montgomery County;
- (vii) Prince George's County.

(b) (1) The board of county commissioners or the county council shall annually meet and discuss with municipal officials, and after this consultation with municipal officials, may levy a tax on the assessable property located within one or more of the municipal corporations of the county, which is less than the general county property tax rate, if the municipal corporation performs governmental services or programs in lieu of similar county governmental services or programs. In establishing the property tax rate on the assessable property within one or more of the municipal corporations, the county may take into account the governmental services and programs which the municipal corporations perform in lieu of similar county governmental services and programs and the extent that the similar services and programs are funded through



property tax revenues. The county property tax rate set for one municipal corporation does not have to be uniform among all municipal corporations within the county, and the rate set for one tax year need not be the same in any succeeding year.

(2) In lieu of a lesser rate of county property tax as provided in paragraph (1) of this subsection, the county may make a payment to the municipal corporations to assist the municipal corporations in funding governmental services or programs which the municipal corporations perform in lieu of similar county services or programs.

(3) The provisions of this subsection apply only in:

- (i) Calvert County;
- (ii) Caroline County;
- (iii) Carroll County;
- (iv) Cecil County;
- (v) Charles County;
- (vi) Dorchester County;
- (vii) Frederick County;
- (viii) Harford County;
- (ix) Kent County;
- (x) Queen Anne's County;
- (xi) Somerset County;
- (xii) St. Mary's County;
- (xiii) Talbot County;
- (xiv) Washington County;
- (xv) Wicomico County; and
- (xvi) Worcester County.

(1983, ch. 603.)

**Amendment effective July 1, 1984.** — The 1983 amendment, effective July 1, 1984, designates the provisions of subsection (a) as paragraph (1), substitutes "shall levy" for "may levy" near the beginning of the first sentence in that paragraph, inserts "it can be demonstrated that" in that sentence, substitutes "shall take

into account" for "may take into account" in the second sentence, redesignates subsection (b) to be paragraph (2) in subsection (a), substitutes "paragraph (1) of this subsection" for "subsection (a) of this section" in that paragraph, deletes subsection (c), adds paragraph (3) in subsection (a) and adds subsection (b).

**Sec. 11-16. Exemption of incorporated towns from taxation for certain purposes.**

(a) In fixing the tax rate for the county for any year beginning after June 1, 1953, the county council shall first fix a rate applicable in an equal manner to property within and without the incorporated towns of the county, which rate shall be sufficient to raise all sums needed to be raised by such taxation to meet all estimated county expenses except the following, which are hereinafter called "listed activities," for which listed activities no levy shall be made on property within the incorporated towns:

(1) Maintenance, care, repair and construction of roads and bridges outside the boundaries of the incorporated towns.

(2) All expenses of the county department of public works concerning county highways.

(b) After fixing a county-wide rate as above, the county council shall then levy an additional tax on property outside the city and incorporated towns sufficient to satisfy the appropriations for the above listed activities outside the city and incorporated towns, after first applying to such appropriations all other anticipated revenue required to be spent on any of such listed activities and any surplus resulting from any such prior additional tax, levied for any year beginning after January 1, 1953, or other revenue required to be spent on any of such listed activities. All sums collected from such additional tax, together with all other revenues dedicated or allocated to any one or more of such listed activities shall be kept by the treasurer or the comptroller of the treasury of the county in a special account separate and apart from all other funds, and no part of the funds so directed to be segregated for such listed activities shall be spent for any purpose other than such listed activities; provided, that the county council may, to avoid the necessity of borrowing for current operations, advance money to or from such funds segregated hereunder in accordance with the Charter. (Bill No. 77-98, § 1.)

## APPENDIX C - MONTGOMERY COUNTY LAW

### CHAPTER 30A.

#### MONTGOMERY COUNTY MUNICIPAL REVENUE PROGRAM.

§ 30A-1. Established.

§ 30A-2. Qualification of municipal public services for county reimbursement.

§ 30A-3. Determination of amount of reimbursement.

§ 30A-4. Limitations on expenditures.

§ 30A-5. Application to participate in program.

#### Sec. 30A-1. Established.

There is hereby established a program to reimburse municipalities within the county for those public services provided by the municipalities which would otherwise be provided by the county government. (1974 L.M.C., ch. 7, § 1.)

#### Sec. 30A-2. Qualification of municipal public services for county reimbursement.

Municipal public services shall qualify for county reimbursement if the following conditions are met: (1) The municipality provides the service to its residents and taxpayers, (2) the service would be provided by the county if it were not provided by the municipality, (3) the service is not actually provided by the county within the municipality and (4) the comparable county service is funded from tax revenues derived partially from taxpayers in the participating municipality. (1974 L.M.C., ch. 7, § 1.)

#### Sec. 30A-3. Determination of amount of reimbursement.

Subject to the provisions of section 30A-4, each participating municipality shall be reimbursed by an amount determined by the county executive to approximate the amount of municipal tax revenues required to fund the eligible services. The amount of reimbursement shall be limited to the amount the county executive estimates the county would expend if it were providing the services. (1974 L.M.C., ch. 7, § 1.)

#### Sec. 30A-4. Limitations on expenditures.

All expenditures by the county under the authority of this chapter shall be subject to the limits of the funds appropriated by the county council. (1974 L.M.C., ch. 7, § 1.)

#### Sec. 30A-5. Application to participate in program.

Any municipality within the county which desires to participate in the county municipal revenue program shall submit not later than November 15 of each year to the county an application which shall be in such form and contain such information as may be required by the county executive. (1974 L.M.C., ch. 7, § 1.)



APPENDIX D - PRINCE GEORGE'S COUNTY LAW

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

Legislative Session 1983

Proposed and Presented by Council Member Herl

Introduced by Council Members Herl, Casula and Castaldi

Bill No. CB-134-1983

Chapter No. 99

Introduced by Council on November 1, 1983

BILL

AN ACT concerning

Municipal Tax Differential

FOR the purpose of establishing the procedures for the reduction of the rate of County real property taxes levied in municipalities to reflect the cost of those services not provided to municipal residents by the County.

BY repealing:

SUBTITLE 10. FINANCE AND TAXATION.

Sections 10-183 through

10-186.2,

The Prince George's County Code

(1979 Edition, 1982 Supplement).

BY adding:

SUBTITLE 10. FINANCE AND TAXATION.

Sections 10-183 through

10-185 ,

The Prince George's County Code

(1979 Edition, 1982 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 10-183 through 10-186.2 of the Prince George's County Code be and the same are hereby repealed.

SUBTITLE 10. FINANCE AND TAXATION.

DIVISION 6. MUNICIPAL TAX DIFFERENTIAL.

1 [Sec. 10-183 through 10-186.2].

2 SECTION 2. BE IT FURTHER ENACTED that Sections 10-183  
3 through 10-185 be and the same are hereby added to the  
4 Prince George's County Code.

5 SUBTITLE 10. FINANCE AND TAXATION.

6 DIVISION 6. MUNICIPAL TAX DIFFERENTIAL.

7 Sec. 10-183 - Definitions.

8 For purposes of this Division the following words and  
9 phrases have the meaning assigned below, except in those  
10 instances in which the context clearly indicates a different  
11 meaning:

12 (1) County-wide real property assessable base shall be as  
13 set forth in the County's Approved Current Expense Budget.

14 (2) Eligible services shall mean those services which are  
15 provided by a municipality in lieu of County services.

16 (3) Municipal real property assessable base shall be that  
17 figure calculated by the County from the most currently  
18 available assessment data.

19 (4) Municipality shall mean an incorporated city or town  
20 which holds a Charter from the State of Maryland and is  
21 partially or entirely within the boundaries of Prince George's  
22 County.

23 (5) Net county service cost shall mean the cost for a  
24 service as reflected in the County's adopted Current Expense  
25 Budget increased by the amount of indirect costs allocated to  
26 that service and reduced by any fees, service charges, grants  
27 or other revenue directly attributable to that service.

28 Sec. 10-184. Municipal Tax Differential established.

29 (a) In fiscal year 1985 and each year thereafter the  
30 County Council shall levy against all real property located  
31 within each municipality a tax rate that shall be lower than the  
32 tax rate levied against real property situated in unincorporated

1 areas of the County in accordance with the procedures set forth  
2 in this Division.

3 (b) The difference between the tax rates for  
4 unincorporated areas and the several municipalities shall be  
5 calculated and established as follows:

6 1. For each eligible service, the County shall compute the  
7 net County service cost.

8 2. The County shall convert the net county service cost  
9 into a real property tax rate equivalent by dividing the net  
10 county service cost by the County-wide real property assessable  
11 base.

12 3. The County shall provide to each municipality by  
13 October 1 of each year a copy of the County's adopted Current  
14 Expense Budget for the fiscal year which began the preceding  
15 July 1, which document shall be used in determining the tax  
16 differential for the ensuing fiscal year.

17 4. The County shall also provide to each municipality a  
18 standardized report form listing each potentially eligible  
19 service.

20 5. Each municipality shall identify, in 10% increments,  
21 the degree to which it is providing eligible services to its  
22 citizens in lieu of the County providing those services. Each  
23 municipality shall complete and return the standardized report  
24 to the County by November 1 of each year.

25 6. Each municipality's report shall be subject to  
26 verification by the County, and may be subject to negotiation  
27 between the County and the municipality.

28 7. If, by December 15 the County and the municipality are  
29 unable to agree on the degree to which the municipality is  
30 providing one or more eligible service(s) in lieu of the County  
31 providing the eligible service(s), the matter(s) in dispute  
32 shall be submitted to an Advisory Arbitration Panel as



1 established in Section 10-185 of this Division.

2 8. For each eligible service, the degree of service  
3 provided by the municipality times the real property tax rate  
4 equivalent, times the municipality's real property assessable  
5 base, shall equal the unadjusted value of the municipality's  
6 eligible service.

7 9. The total of the unadjusted values for all eligible  
8 services provided by all municipalities shall be the unadjusted  
9 value of Part One of the tax differential program.

10 10. The total municipal share of local income tax revenues  
11 for all municipalities as projected using the County income tax  
12 estimate in the County budget shall be subtracted from the  
13 unadjusted value of the tax differential program. The balance  
14 represents the adjusted value of Part One of the tax  
15 differential program. The adjusted value of Part One of the tax  
16 differential program shall be allocated among the municipalities  
17 in direct proportion to each municipality's share of the total  
18 unadjusted value of all municipal eligible services.

19 11. Each municipality's share of the value of Part One of  
20 the tax differential program shall be converted to a real  
21 property tax rate equivalent by dividing that value by the  
22 municipality's real property assessable base.

23 12. For Part Two of the differential program, the County  
24 shall convert each municipal tax differential grant amount  
25 provided in Fiscal Year 1984 to a real property municipal tax  
26 rate equivalent by dividing each municipality's Fiscal Year 1984  
27 grant amount by that municipality's real property assessable  
28 base for Fiscal Year 1984. The resulting real property tax rate  
29 equivalent shall be the constant differential rate to be  
30 provided as Part Two of the Differential formula.

31 13. For each municipality, the sum of the differential tax  
32 rates as determined under Part One and Part Two of the formula

1 shall be the tax rate differential for the ensuing fiscal year.

2 14. The total amount of the tax differential provided in  
 3 this Division shall be phased in over a two-year period,  
 4 beginning in Fiscal Year 1985, as determined by the County. The  
 5 amount to be phased in for Fiscal Year 1985 shall not be less  
 6 than the amount determined under Part Two, plus at least some  
 7 portion of the amount determined under Part One.

8 15. For Fiscal Years 1985 and 1986 only, those  
 9 municipalities with charter tax rate limitations, and whose  
 10 Fiscal Year 1984 tax rate per One Hundred Dollars (\$100.00)  
 11 assessed valuation is not ten cents (\$0.10) or more below their  
 12 tax rate limit, shall be provided the tax rate differential  
 13 determined under Part One, including for Fiscal Year 1985, the  
 14 same relative portion of the amount determined under Part One  
 15 for all municipalities, and shall be provided a grant in an  
 16 amount determined under Part Two in lieu of a tax differential  
 17 determined under Part Two.

18 Sec. 10-185. Advisory Arbitration Panel; selection; procedures.

19 (a) An advisory arbitration process shall be employed in  
 20 the event the County and a municipality are unable to reach  
 21 agreement upon the degree to which a municipality is providing  
 22 services in lieu of the County providing the service. An  
 23 advisory arbitration panel shall be constituted as follows:

24 a. One member named by the municipality;  
 25 b. One member named by the County government;  
 26 c. One member chosen jointly by the member selected by the  
 27 municipality and the member selected by the County government.

28 (b) Upon receipt of disputed matter(s), an advisory  
 29 arbitration panel, selected as set forth in (a), above, shall  
 30 conduct a hearing no later than January 30, provided that both  
 31 the County and the municipality have had no less than forty-  
 32 eight (48) hours notice of the date, time and place of such

1 hearing.

2 (c) At the hearing, the County and the municipality may  
3 present testimony, evidence, and oral argument as to the matters  
4 in dispute.

5 (d) The Advisory Arbitration Panel shall issue its  
6 advisory determination to the County Executive and County  
7 Council no later than February 15. The final decision shall be  
8 made by the County Executive and County Council.  
9 Sections 10-186 through 10-186.2.. Reserved.

10 SECTION 3. BE IT FURTHER ENACTED that the procedural steps  
11 for establishing the tax differential rate as enacted in Section  
12 2 of this Act and set forth in Section 10-184(b) (3), (5) and (7)  
13 shall, for Fiscal Year 1985, take place by December 15, 1983,  
14 January 30, 1984, and February 15, 1984, respectively; and the  
15 dates set forth in Section 10-185 (b) and (d) shall be March 1,  
16 1984, and March 15, 1984, respectively.

17 SECTION 4. BE IT FURTHER ENACTED that this Act shall take  
18 effect forty-five (45) calendar days after it becomes law.

19 Adopted this 29th day of November, 1983.

20 COUNTY COUNCIL OF PRINCE  
21 GEORGE'S COUNTY, MARYLAND

22 BY: Frank P. Casula

23 Frank P. Casula  
24 Chairman

24 ATTEST:

25 Jean M. Schmuhl  
26 Jean M. Schmuhl, Clerk

27 APPROVED:

28 DATE: December 12, 1983

29 BY: Parris N. Glendening

30 Parris N. Glendening  
31 County Executive

32 TO BECOME EFFECTIVE JANUARY 27, 1984



# Property Tax Double Taxation in Maryland

Double taxation exists (1) when a county and a municipality within that county provide similar services financed with property tax revenues, and (2) when the county does not provide those services within municipal corporate limits because the city or town already does so. In such cases, municipal property owners pay taxes to both the municipal and county governments for a service (or services) they receive only from the municipality.

## Property Tax Setoffs

A *property tax setoff* compensates municipal taxpayers for double taxation by levying a lower county property tax rate -- known as a *property tax differential* -- for municipal property owners or by granting a direct payment -- known as a *property tax rebate* -- to the municipality.

## Legislative History

While laws addressing municipal-county double taxation in Maryland have been in place for many years, it was not until 1975 that the General Assembly enacted double taxation legislation that generally had statewide application. After failing to enact similar legislation in 1974, the General Assembly passed a measure in 1975 that permitted, but did not require, counties to offer a tax differential or a tax rebate for cities and towns that provided services in lieu of similar county services. However, through the use of legislative local courtesy, one-third of the counties were exempted from this legislation.

As a result of legislation passed over the next three years (1976-1978), all but one county was brought under the property tax setoff enabling authorization. In 1977, legislation passed affecting only Anne Arundel County and Howard County (the latter of which has no municipalities). In those two counties the law established that the county "may not impose taxes upon residents of any incorporated municipality for services which that municipality provides for its residents." In 1978, the General Assembly also approved a bill requiring the Department of Fiscal Services to prepare an annual report reviewing the progress of counties in establishing tax setoff systems.

Legislation enacted in 1982 required all county governments to meet and confer annually with municipal governments within their jurisdictions to determine whether double taxation existed.

It was not until 1983 that the General Assembly enacted a law requiring a county to provide a property tax setoff for municipal property taxpayers if a municipality provides a service in lieu of a similar county service. The law took a two-pronged approach, again as a result of local courtesy. For all but seven counties the law stated that, where double taxation was found to exist, a county *may* provide a property tax setoff. For the remaining seven counties (only five of which had municipalities) the law required that a county *shall* provide a property tax setoff where double taxation was determined to exist.

From 1983 to 1998, the law, as it affects all municipal governments, remained unchanged with the exception of legislation passed in 1986 that added an eighth county (Harford) to the *shall* provision. However, the section of law affecting only Anne Arundel County and Howard County was amended in 1985 to provide that these two counties could not impose a property tax within a municipality to pay for services that city or town provides. As originally enacted, this section of law had applied to all county taxes -- not just property taxes.

League sponsored legislation introduced during the 1997 General Assembly session initially would have moved all counties in the State to the *shall* category, would have set up guidelines and deadlines for annual municipal-county property tax setoff discussions, and would have established mediation mechanisms to address instances where a municipal government and a county government could not agree on tax setoff issues. As a result of significant opposition from the Maryland Association of Counties, the bill was completely amended to instead create a task force to study double taxation issues and to make recommendations to encourage cooperation between municipal and county governments with regard to property tax double taxation, other State and local tax and aid distributions, and service efficiency and duplication.

After strong encouragement from General Assembly members of the newly created task force to come to an accommodation on these issues, the Maryland Municipal League and the Maryland Association of Counties agreed to compromise legislation which was introduced and passed during the 1998 session of the Maryland General Assembly (see below).

The General Assembly enacted a bill in 1999 to add Frederick County to the list of counties that must provide a property tax setoff when a municipality in the county provides services in lieu of similar county services. Frederick County became the ninth county included under the *shall* provision of Maryland's double taxation law.

Finally, the General Assembly in 2010 (HB 476) and 2011 (SB 760) enacted legislation that took a novel approach. The bills provided that, for fiscal years 2011 and 2012 only, Frederick County was required to grant to each of its municipalities a property tax setoff at least as large as the setoff granted in the preceding fiscal year and to increase



the setoff by the percentage by which the county property tax rate exceeded the constant yield tax rate.

### **1998 Amendments**

The law immediately prior to the passage of MML's priority legislation in 1998 mandated that all Maryland county governing bodies must meet and confer with their municipal governing bodies concerning the issue of double taxation once each year. Eight counties (only six of which had municipalities) were required to provide a property tax setoff if it could be demonstrated that one was warranted. Those counties included Allegany, Anne Arundel, Baltimore, Garrett, Harford, Howard, Montgomery and Prince George's. The law stated that the remaining 15 counties *may* provide, but were not required to provide, a property tax setoff if it could be demonstrated that one was warranted. Nine of these 15 counties gave some level of double taxation relief in 1997, while six did not. The six counties that granted no double taxation relief as of 1997 were Dorchester, Garrett, Somerset, Talbot, Wicomico and Worcester.

With the exception of the requirement that a county governing body meet on an annual basis with municipal governing bodies within the county, these requirements remain unchanged. While the law as amended in 1998 retained the requirement that county and municipal governing bodies meet to discuss the county property tax rate within municipalities, the requirement that this be done annually was deleted.

Instead the law now sets out procedures by which a municipality may request and negotiate double taxation relief from the county and be guaranteed at least a minimum level of response from the county. The bill however leaves latitude for a municipality and a county to establish different terms for negotiations, calculations, and property tax offset approval where both parties agree to alternative approaches. The law also provides the county with the discretion to grant a tax setoff to a city or town that fails to make a request as prescribed in the 1998 amendments.

Under the bills passed in 1998 (Senate Bill 113 and House Bill 216), a municipality that wishes to receive a property tax setoff may submit a proposal stating the desired level of tax offset for the coming year at least 180 days before the required approval date of the annual county budget. The proposal must include a description of the scope and nature of the services or programs that the municipality provides in lieu of similar county services. It must also include financial records on municipal revenues and expenditures. Both submittals must be sufficiently detailed to permit an assessment of the similar services or programs.

Upon receipt of the municipal proposal and accompanying documentation, the county must promptly submit to the municipality financial records and other documents that detail county revenues and expenditures.



At least 90 days before the required annual county budget approval date, both the municipality and the county must designate individuals to meet and discuss issues relating to double taxation. This may be done jointly with other municipalities. The county may also request additional information that is reasonably needed to assess the need for double taxation relief; representatives of the municipal government must in turn provide the requested information in an expeditious manner.

Before or concurrent with the release of the county budget to the public, the county must submit a statement of intent to each incorporated city and town that has requested a property tax setoff. The county statement must include (1) an explanation of the level of the proposed setoff; (2) a description of the information or process used to determine the level of the proposed setoff; and (3) notification that, before the county budget is passed, municipal government representatives may appear before the county governing board to discuss or contest the level of the proposed property tax setoff.

Finally, the law guarantees that representatives of any municipality requesting a tax setoff will be afforded the opportunity to testify before the county governing board during normally scheduled budget hearings of the county.

### **Recent Legislative Requests**

The MML Legislative Committee considered this same request from the Town of Ridgely in 1999 but chose not to recommend the issue for inclusion in the League's legislative program. The Town of Ocean City proposed this same issue in August of 2003; however the Committee elected not to consider the issue because of the lateness of its submission. In 2004 and 2005, the Town of Ocean City submitted the same issue for consideration and the Legislative Committee again declined to recommend the issue to the membership. In 2005 and 2006, the City of Takoma Park submitted a request to enact legislation to provide an appeals process for a municipality in instances where a municipality disputes a determination by a county that double taxation does not exist or where a municipality disputes the level of double taxation setoff that a county offers to provide. The Committee declined to recommend the issue as a League priority. In 2009, Ocean City again recommended this issue as a League priority; the Legislative Committee again declined to recommend the issue to the membership as a priority. A similar legislative request was received and rejected in 2011.

In 2008, the MML Legislative Committee Subcommittee on Revenues and the City of Salisbury proposed a legislative request to require counties to provide a property tax setoff where a municipality has demonstrated that double property taxation exists. Other issues they suggested be addressed included: (1) requiring that county officials meet and confer on double taxation issues by January 30 of each year; (2) extending double taxation deliberations to services paid for with other-than-property-tax revenues to ensure that counties may not inaccurately allocate property tax expenditures to non-duplicative services and (3) providing for an appeals process if a county denies that

double taxation exists or fails to adequately offset double taxation that both parties agree exists. In 2012 the Committee considered a broader legislative request that in part sought legislation to provide more equitable property tax set-offs for municipalities; the Committee however declined to recommend the issue as a League priority.

## Appendix 4: Maryland Code – § 6-305 of the Tax-Property Article

## § 6-305. County tax rate in certain municipal corporations

(a) "Tax setoff" defined. -- In this section, "tax setoff" means:

- (1) the difference between the general county property tax rate and the property tax rate that is set for assessments of property in a municipal corporation; or
- (2) a payment to a municipal corporation to aid the municipal corporation in funding services or programs that are similar to county services or programs.

(b) Applicability of section. -- This section applies only in:

- (1) Allegany County;
- (2) Anne Arundel County;
- (3) Baltimore County;
- (4) Frederick County;
- (5) Garrett County;
- (6) Harford County;
- (7) Howard County;
- (8) Montgomery County; and
- (9) Prince George's County.

(c) Discussion and adjustment. -- The governing body of the county shall meet and discuss with the governing body of any municipal corporation in the county the county property tax rate to be set for assessments of property in the municipal corporation as provided in this section. After the meeting if it can be demonstrated that a municipal corporation performs services or programs instead of similar county services or programs, the governing body of the county shall grant a tax setoff to the municipal corporation.

(d) Setting county rate for municipal corporation. -- In determining the county property tax rate to be set for assessments of property in a municipal corporation, the governing body of the county shall consider:

- (1) the services and programs that are performed by the municipal corporation instead of similar county services and programs; and
- (2) the extent that the similar services and programs are funded by property tax revenues.

(e) Rate need not be uniform. -- The county property tax rate for assessments of property located in a municipal corporation is not required to be:

- (1) the same as the rate for property located in other municipal corporations in the county; or
- (2) the same as the rate set in a prior year.



(f) Tax setoff request. --

(1) At least 180 days before the date that the annual county budget is required to be approved, any municipal corporation in the county that desires that a tax setoff be provided shall submit to the county a proposal that states the desired level of property tax setoff for the next fiscal year.

(2) (i) A request submitted under paragraph (1) of this subsection shall be accompanied by:

1. a description of the scope and nature of the services or programs provided by the municipal corporation instead of similar services or programs provided by the county; and
2. financial records and other documentation regarding municipal revenues and expenditures.

(2) (ii) The materials submitted under subparagraph (i) of this paragraph shall provide sufficient detail for an assessment of the similar services or programs.

(3) After receiving a proposal from a municipal corporation requesting a tax setoff under this subsection, the governing body of the county shall promptly submit to the municipal corporation financial records and other documentation regarding county revenues and expenditures.

(g) Meetings, officers, information and services. --

(1) At least 90 days before the date that the annual county budget is required to be approved, the county and any municipal corporation submitting a tax setoff request under subsection (f) of this section shall designate appropriate policy and fiscal officers or representatives to meet and discuss the nature of the tax setoff request, relevant financial information of the county and municipal corporation, and the scope and nature of services provided by both entities.

(2) A meeting held under paragraph (1) of this subsection may be held by the county representatives jointly with representatives from more than one municipal corporation.

(3) (i) The county officers or representatives may request from the municipal corporation officers or representatives additional information that may reasonably be needed to assess the tax setoff.

(3) (ii) The municipal corporation officers or representatives shall provide the additional information expeditiously.

(h) Statement of intent. --

(1) At or before the time the proposed county budget is released to the public, the county commissioners, the county executive of a charter county, or the county council of a charter county without a county executive shall submit a statement of intent to each municipal corporation that has requested a tax setoff.

## Appendix 5: Montgomery County Code - Chapter 30A – Montgomery County Municipal Revenue Program

§ 30A-1. Established.

§ 30A-2. Qualification of municipal public services for county reimbursement.

§ 30A-3. Determination of amount of reimbursement.

§ 30A-4. Limitations on expenditures.

§ 30A-5. Application to participate in program.

§ 30A-6. County tax rate in certain municipalities. For Takoma Park fire, no longer applicable.

Sec. 30A-1. Established.

There is hereby established a program to reimburse municipalities within the county for those public services provided by the municipalities which would otherwise be provided by the county government. (1974 L.M.C., ch. 7, § 1.)

Sec. 30A-2. Qualification of municipal public services for county reimbursement.

Municipal public services shall qualify for county reimbursement if the following conditions are met: (1) The municipality provides the service to its residents and taxpayers; (2) the service would be provided by the county if it were not provided by the municipality; (3) the service is not actually provided by the county within the municipality; and (4) the comparable county service is funded from tax revenues derived partially from taxpayers in the participating municipality. (1974 L.M.C., ch. 7, § 1.)

Sec. 30A-3. Determination of amount of reimbursement.

Subject to the provisions of section 30A-4, each participating municipality shall be reimbursed by an amount determined by the county executive to approximate the amount of municipal tax revenues required to fund the eligible services. The amount of reimbursement shall be limited to the amount the county executive estimates the county would expend if it were providing the services. (1974 L.M.C., ch. 7, § 1.)

Sec. 30A-4. Limitations on expenditures.

All expenditures by the county under the authority of this chapter shall be subject to the limits of the funds appropriated by the county council. (1974 L.M.C., ch. 7, § 1.)

Sec. 30A-5. Application to participate in program.

Any municipality within the county desiring to participate in the county municipal revenue program shall submit not later than November 15 of each year to the county an application which shall be in such form and contain such information as may be required by the county executive. (1974 L.M.C., ch. 7, § 1.)



Introduced: June 19, 1973  
Enacted: August 21, 1973 Attachment J  
Executive: August 28, 1973  
Effective: November 12, 1973

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
June Legislative Session 1973

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Chapter 7

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AN ACT to add a new Chapter 30A to the Montgomery County Code 1972, title, "Montgomery County-Municipal Revenue Program", to follow immediately after Chapter 30 thereof to empower the County to reimburse any municipality within the geographic boundaries of Montgomery County for services such municipality renders its taxpayers which would be wholly or partly performed for those taxpayers by the County if the municipality did not exist and specifying the factors to be considered and the procedure to be followed.

Be It Enacted by the County Council for Montgomery County, Maryland, that -

Sec. 1. A new Chapter 30A, title "Montgomery County - Municipal Revenue Program", is hereby added to the Montgomery County Code, 1972, to follow immediately after Chapter 30 and to read as follows:

Chapter 30A

Montgomery County - Municipal Revenue Program

30A-1 General. There is hereby established a program to reimburse municipalities within Montgomery County for those public services provided by the municipalities which would otherwise be provided by the County government.

30A-2 Reimbursable Services. Municipal public services shall qualify for County reimbursement if the following conditions are met: (1) the municipality provides the service to its residents and taxpayers, (2) the service would be provided by the County if it were not provided by the municipality, (3) the service is not actually provided by the County within the municipality, and (4) the comparable County service is funded from tax revenues derived partially from taxpayers in the participating municipality.

30A-3 Amount of Reimbursement. Subject to the provisions of Section 30A-4, each participating municipality shall be reimbursed by an amount determined by the County Executive to approximate the amount of municipal tax revenues required to fund the eligible services. The amount of reimbursement shall be



limited to the amount the County Executive estimates the County would expend if it were providing the services.

30A-4 Limitations on Expenditures. All expenditures by the County under the authority of this Chapter shall be subject to the limits of the funds appropriated by the Montgomery County Council.

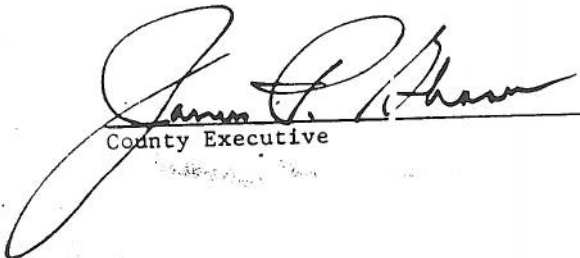
30A-5 Procedures. Any municipality within the County which desires to participate in the Montgomery County - Municipal Revenue Program shall submit not later than November 15 of each year to the County an application which shall be in such form and contain such information as may be required by the County Executive.

Sec. 2. Effective Date. This Act shall take effect on the 76th day following the date on which it becomes law.

APPROVED:

 \_\_\_\_\_  
President, County Council August 22, 1973  
Date

APPROVED:

 \_\_\_\_\_  
County Executive August 28, 1973  
Date

ATTEST:

 \_\_\_\_\_  
Secretary of the County Council August 28, 1973  
Date

34-73  
78

MEMORANDUM

August 17, 1973

TO: County Council

FROM: Ronald E. Resh, Legislative Counsel *RER*

SUBJECT: Bills No. 32-73 and 34-73, Municipal Revenue Sharing Program

Materials Attached

1. Bill No. 32-73 proposed by the County Executive, Amendment No. 1 proposed by Mr. Hovsepian, and Amendments 2 and 3 proposed by Mr. Christeller.
2. Bill No. 34-73, proposed by Mr. Christeller, Amendments 1 and 2 proposed by Mr. Christeller, and Amendment 3 proposed by Mr. Hovsepian.
3. Explanatory memoranda from the County Executive on May 25 and from Mr. Christeller on June 8.
4. A memorandum from the County Attorney on August 7 indicating that Bills 32-73 and 34-73 cannot legally be expanded to include town sectors and questioning the validity of Amendment 3 to Bill 32-73 and Amendment 2 to Bill 34-73.
5. A summary of testimony from the public hearing on the subject bills.

Testimony at the Public Hearing

Municipal officials testifying at the public hearing were unanimously in favor of the concept of municipal revenue sharing. Basically, they did not voice a preference for one bill over the other, but they did urge that if an October 1 application deadline is set, whatever is enacted should be made emergency legislation. It was noted that unless the measure took effect immediately after it is signed by the Executive, there would be no way that the proposed October 1 deadline could be met this year.

Issues to be discussed

The Council must decide which of the two bills is to be enacted, which amendments shall be accepted, and whether the measure accepted shall be emergency legislation.

RER/saw

Attachments



Bill No. 32-73

Introduced: June 19, 1973

Adopted:

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
June Legislative Session 1973

By: Council President at the Request of the County Executive

1 AN ACT to add a new Chapter 30A to the Montgomery County Code 1972, title,  
2 "Montgomery County-Municipal Revenue Program", to follow immedi-  
3 ately after Chapter 30 thereof to empower the County to reimburse  
4 any municipality within the geographic boundaries of Montgomery  
5 County for services such municipality renders its taxpayers which  
6 would be wholly or partly performed for those taxpayers by the  
7 County if the municipality did not exist and specifying the  
8 factors to be considered and the procedure to be followed.

Be It Enacted by the County Council for Montgomery County, Maryland,  
that -

1 Sec. 1. A new Chapter 30A, title "Montgomery County - Municipal  
2 Revenue Program", is hereby added to the Montgomery County Code, 1972,  
3 to follow immediately after Chapter 30 and to read as follows:

Chapter 30A

Montgomery County - Municipal Revenue Program

6 30A-1 General. If a municipality located within the geographic bound-  
7 aries of Montgomery County, Maryland performs any reimbursable service  
8 for its taxpayers which is a service that would be wholly or partly  
9 performed for those taxpayers by the County if the municipality did not  
10 exist, the County shall establish a program to reimburse any such munici-  
11 pality by the amount which a municipality must raise from its own taxes  
12 to provide the eligible service.



13 30A-2 Procedure. Any municipality within the County which desires to  
14 participate in the Montgomery County - Municipal Revenue Program with  
15 the County shall submit annually to the County Executive an application  
16 which shall be in such form and contain such information as may be required  
17 by the County. A reimbursable service qualifies if (1) the municipality  
18 provides the service to its taxpayers, (2) the service would be pro-  
19 vided by the County if the service were not provided by the municipality,  
20 and (3) the service is not actually provided by the County within the  
21 municipality.

22 30A-3 Limitations on Expenditures. All expenditures authorized by the  
23 County for purposes of this Chapter shall be subject to the limits of  
24 the funds appropriated by the Montgomery County Council.

1 Sec. 2. Effective Date. This Act shall take effect on the 76th  
2 day following the date on which it becomes law.

MJH/lg

Proposed by: Councilman Hovsepian

Amendment No. 1

to

Bill No. 32-73

Municipal Revenue Sharing

Re. Submission of Applications by Municipalities

On page 2 of the bill, line 15, delete the word "annually" and insert  
in lieu thereof the words "not later than October 1 of each year."



Proposed by: Councilmember  
Christeller

Amendments No. 2 and 3

to

B4111 32-73

Municipal Revenue Sharing

Amendment No. 2

On page 2 of the bill, line 20, strike the word "and". In line 21, strike the period and add the following language:

" , and (4) the comparable County service is funded from tax revenues derived partially from taxpayers in the participating municipality."

Amendment No. 3

On page 2 of the bill, Section 30A-3, strike the language in lines 22 through 24 and insert in lieu thereof the following:

"30A-3 Limitations on Expenditures.

The amount of reimbursement shall be limited to the amount the County Executive estimates the County would expend if it were providing the services; provided, however, that the County Executive may authorize a minimum grant without regard to this limitation, but subject to such limitation as the County Council may prescribe in its approval of the budget or appropriation of funds."



Bill No. 34-73

Introduced: June 19, 1973  
Adopted: 8/21/73

COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
Legislative Session 1973

By: County Council.

1 AN ACT to add a new Chapter 30A to the Montgomery County Code 1972, title,  
2 "Montgomery County-Municipal Revenue Program", to follow immedi-  
3 ately after Chapter 30 thereof to empower the County to reimburse  
4 any municipality within the geographic boundaries of Montgomery  
5 County for services such municipality renders its taxpayers which  
6 would be wholly or partly performed for those taxpayers by the  
7 County if the municipality did not exist and specifying the  
8 factors to be considered and the procedure to be followed.

Be It Enacted by the County Council for Montgomery County, Maryland,  
that -

1 Sec. 1. A new Chapter 30A, title "Montgomery County - Municipal  
2 Revenue Program", is hereby added to the Montgomery County Code, 1972,  
3 to follow immediately after Chapter 30 and to read as follows:

4 Chapter 30A

5 Montgomery County - Municipal Revenue Program

6 30A-1 General. There is hereby established a program to reimburse  
7 municipalities within Montgomery County for those public services provided by  
8 the municipalities which would otherwise be provided by the County government.

9 30A-2 Reimbursable Services. Municipal public services shall  
10 qualify for County reimbursement if the following conditions are met:

11 (1) the municipality provides the service to its residents and  
12 taxpayers, (2) the service would be provided by the County if  
13 it were not provided by the municipality, ~~and~~ (3) the  
14 service is not actually provided by the County within the munici-  
15 pality. *Insert 1*

16 30A-3 Amount of Reimbursement. Subject to the provisions of  
17 Section 30A-4, each participating municipality shall be reimbursed



18 by an amount determined by the County Executive to approximate the  
19 amount of municipal tax revenues required to fund the eligible services.

20 30A-4 Limitations on Expenditures. All expenditures by the County under  
21 the authority of this Chapter shall be subject to the limits of the funds  
22 appropriated by the Montgomery County Council.

23 30A-5 Procedures. Any municipality within the County which desires to  
24 participate in the Montgomery County - Municipal Revenue Program shall  
25 submit <sup>Insert 3</sup> ~~annually~~ to the County an application which shall be in such form  
26 and contain such information as may be required by the County Executive.

1 Sec. 2. Effective Date. This Act shall take effect on the 76th  
2 day following the date on which it becomes law.



Proposed by: Councilmember Christeller

Amendments to Municipal Revenue Sharing

Bill No. 34-73

Amendment No. 1

Section 30A-2, line 13, strike the word "and"; line 15, strike the period and add "<sup>Insert 1</sup> and (4) the comparable County service is funded from tax revenues derived partially from taxpayers in the participating municipality."

Amendment No. 2

<sup>Insert 2</sup>  
Section 30A-3, add the following sentence at the end of line 19: "The amount of reimbursement shall be limited to the amount the County Executive estimates the County would expend if it were providing the services, provided, however, that the County Executive may authorize a minimum grant without regard to this limitation, but subject to such limitation as the Council may prescribe in its approval of the budget or appropriation of funds."

Amendment No. 3

<sup>Insert 3</sup>  
Section 31A-5, line 25, delete the word "annually" and insert in lieu thereof the words "not later than <sup>Nov. 15</sup> October 1 of each year."



MEMORANDUM

June 8, 1973

TO: Council Members  
FROM: Norman H. Christeller  
SUBJECT: Municipal Revenue Sharing

I can readily endorse the concepts contained in the proposed "Montgomery County-Municipal Revenue Program", but I have problems with the draftsmanship in the bill we have been asked to consider. These problems include the following:

1. The draft bill does not correspond to the specifics of the Executive's memorandum nor those of the staff paper transmitted therewith. For example, the bill does not appear to authorize the suggested \$1,000 floor nor does it appear to authorize the 2/3 allowance contained in the Executive's summary.
2. The draft bill provides no protection against profligate action by a municipality.
3. The draft bill does not explicitly limit the grants to municipal services which parallel County services funded by tax revenues derived partially from the municipal residents.
4. The organization and syntax of the draft bill need attention.

In order to address these problems, I have (1) re-drafted the proposed bill to put it in better form without changing its content and (2) drafted two amendments which are intended to eliminate the first three problems noted above.

NC/pos

Attachments



MEMORANDUM

August 7, 1973

**TO:** William Sher, Council President  
**FROM:** Richard A. McKernon, County Attorney  
**SUBJECT:** Expansion of Bills 32-73 and 34-73 to Include Town Sectors

You asked for immediate advice as to whether or not the authority of the County would extend to granting revenue sharing to such private organizations as the homeowners' organizations in town sector zones and planned retirement communities. You ask whether or not Bills 32-73 and 34-73 could be expanded without other advertising to include such organizations.

The answer as to notice is that the particular bills may not be expanded to include such private organizations and, therefore, new bills must be introduced.

This office is, at this time, of the opinion that the County may not grant funds or expend public money to support the private activities of citizens within the town sectors or planned retirement communities. A formal opinion will follow.

You should also be advised that Councilmember Christeller's amendment number 2 to Bill 34-73 and amendment number 3 proposed to Bill 32-73 are suspect as to validity. This office has held that the County may not grant to municipalities or reimburse municipalities in excess of the amount of money which the County would expend if it were, in fact, providing the municipal services. The proposed amendments apparently would allow the Council to set any amount of grant by appropriation without regard to a limitation. There is no authority which we can find under any of the statutory provisions of the State Code, local laws or the Charter which would allow the County Council to take money from County taxpayers for the subsidization of taxpayers who are residents of municipalities.

The County Executive is aware of this limitation, and it has been conveyed to the municipalities in at least one meeting at which Assistant County Attorney Martin Hutt discussed the subject with officials of the municipalities.

RSMCK/ARC/eg

cc: Norman Christeller  
Ron Resch,



Summary of Testimony  
on  
Bills 32-73 and 34-73  
MUNICIPAL REVENUE SHARING

July 31, 1973

1. John Short, Representing the County Executive

Mr. Short indicated that the Executive branch prefers Bill 32-73, the Executive's proposal, but would have no objection to Mr. Christeller's Bill 34-73. The Executive branch urges that no specific deadline for filing be included in the bill. It is feared that this would make the provision too restrictive and could conceivably rule out an otherwise appropriate application if it were to be filed late. The Executive branch believes that this matter can be handled administratively.

2. Councilman James R. Shay, Representing the Montgomery County Chapter of the Maryland Municipal League

Councilman Shay recommends approval of either measure. However, he believes that the proposed amendments dealing with the October 1 application date could be a problem. Unless whatever bill is enacted is enacted as emergency legislation, the normal 76 day effective date would extend past October 1 of this year and would therefore render application impossible if the October 1 date would be specified in the bill. He suggests that either Bill 34-73 be enacted as emergency legislation or Bill 32-73 be enacted as it is without the specified application date. He supports the concept of emergency legislation, citing the urgent need by the municipalities to know what funds will be available, and he also urges the adoption of a supplemental appropriation as soon as possible.

3. Mr. William Austin, Chevy Chase Village

Mr. Austin supports Councilman Shay's statement and urges the Council to keep the application time flexible. He also supports enactment of emergency legislation.

4. Captain J. E. Dolan, Town of Garrett Park

Captain Dolan likewise spoke in support of these measures and indicated that the October 1 application date would be agreeable if there would be emergency enactment. If not, the application date should be left flexible.

5. Mayor Harold C. Morris, City of Gaithersburg

Mayor Morris supports Mr. Shay's remarks and also supports the concept of emergency legislation.

6. Mr. Robert Shewmaker, Montgomery Village Citizens Association

Mr. Shewmaker urges the Council to expand the provisions of these bills to include town sectors that provide services similar to municipal services for their residents. He pointed out that the homeowners in such areas are legally obligated to contribute toward the payment of these services. He believes either bill could be amended to extend this coverage. He feels if town sectors are not included, he and his association would not support either bill because of the inequity this would perpetuate.



Discussion then ensued as to whether such coverage should be expanded to include planned retirement communities as well as other projects having internal streets, etc. maintained by those residents.

It was agreed to ask the County Executive and the County Attorney to comment on the suggested expansion of these bills.

7. Mayor J. S. Goldberg, Town of Somerset  
Mayor Goldberg supports these measures and urges that adoption be as emergency legislation.
8. Mayor John D. Roth, City of Takoma Park  
Mayor Roth supports these measures and urges adoption as emergency legislation.
9. Mayor Matthew McCartin, City of Rockville  
Mayor McCartin supports these measures and pointed out the need to have some idea of what funds would be available as soon as possible. He urges that whatever is enacted be done as emergency legislation.